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The Financial Implications of (1) Provincial Autonomy and (2) Federation.

1. The object of this paper is to afford some guide to the points which may arise in discussion of the financial implications of the constitutional changes now under consideration; it does not attempt to supply answers to the problems which arise, nor do any opinions expressed reflect the views of His Majesty's Government. Figures are given in crores of rupees; one crore—i.e. ten million—of rupees is equivalent to £750,000. Sterling equivalents, in millions of pounds to two decimal places, have been indicated in the margin.

2. The problem of the allocation of resources under the new Constitution may be considered under two heads; firstly, the readjustments which are desirable in the financial relations of the Centre and the Provinces if the latter become autonomous; and secondly, the financial implications of the establishment of a Federation. As far as possible, the two points are separately treated as Parts I and II below. A summary of the proposals in the White Paper is given as Part III.

Part I.

3. At present all the revenues of British India are in theory available to the purposes of the Governor-General in Council, and the Government of India Act of 1919 does not recognise any division between the revenues of the Centre and the Provinces. But Rules under section 45A of the Act assign certain sources of revenue to the Provinces, corresponding in the main to the provincial subjects administered by them, though the Centre retains a final call on all the revenues of the Provinces (see Devolution Rules 14-20). In practice the Provinces budget for the disposal of the revenues accruing to them under these arrangements and the Centre only intervenes to the extent of requiring a Province to re-establish its finances in the event of a deficit. The general result at the present time is shown in the following Table, from which may be gathered the manner in which the total revenues of British India are now divided as between the Centre and the Provinces, the main sources from which revenues are derived, and the relative importance of the various items of revenue and expenditure.

Table I.

Budget Estimates of Revenue and Expenditure of Central and Provincial Governments in 1933-34.

Central Revenue.	Rs. Crores.	= £ millions.
Customs (net)	50·27	37·70
Income taxes (net)	17·21	12·91
Salt (net)	7·60	5·70
Other taxes (net)	·60	·45
Net tax revenue ...	75·68	56·76
Opium (net)	·63	·47
Railways (net)	Nil	Nil
Currency and Mint (net) ...	1·11	·83
Payments from States ...	·74	·56
Total	78·16	58·62

Central Expenditure.	Rs. Crores	= £ millions.
Post and Telegraphs (net) ...	·61	·46
Debt:		
Interest (net)	8·97	6·73
Reduction of Debt... ...	6·89	5·17
Civil Administration (net)...	8·76	6·57
Pensions (net)	3·02	2·26
Civil Works (net)	1·72	1·29
Defence Services (net) ...	46·20	34·65
Subvention to N.W.F.P. ...	1·00	·75
Miscellaneous (net)	·74	·55
Total	77·91	58·43

Provincial Revenues.	Rs. Crores.	= £ millions.
Land Revenue	35·29	26·47
Excise	14·85	11·14
Stamps	12·40	9·30
Registration	1·14	·85
Scheduled Taxes	·43	·32
Total tax revenue ...	64·11	48·08
Forests (net)	·69	·52
Irrigation (net) ...	·49	·37
Miscellaneous	11·32	8·49
N.W.F.P. subvention ...	1·00	·75
Total	77.61	58.21

Provincial Expenditure.	Rs. Crores	= £ millions.
Land Revenue and General Administration	14·86	11·14
Police	12·38	9·28
Jails and Justice	7·66	5·75
Debt	4·21	3·16
Pensions	5·08	3·81
Education	11·80	8·85
Medical and Public Health...	5.23	3.92
Agriculture and Industries ...	2·89	2·17
Civil Works	8·33	6·25
Miscellaneous	7·34	5·51
Total	79·78	59·84

£ millions 4. These figures cannot be taken as representing a normal budget; they
reflect the results of depression and of the severe economies in both Army
and Civil expenditure undertaken to meet it. If a comparison be made
with the table given on page 215 of Volume II of the Report of the Statutory
Commission, it will be seen that the Central revenue has declined from
63·68 84.9 crores in 1929-30 to 78.16 crores† in the present budget year, and
†58·62 ‡58·48 the expenditure has been reduced from 84.9 crores* to 77.91 crores.‡ (In
order to make the two sets of figures comparable the cost of collection has
been treated as a deduction from revenue instead of an item of expenditure.)
§58·62 The figure of 78.16 crores§ has only been attained by emergency taxation,
i.e. the surcharge on income tax, customs and salt. The provincial figures
‖66·19 represent a fall in aggregate income from 88.25 crores‖ to 77.61 crores;¶ and
¶58·21 **·94 the aggregate surplus of 1¼ crores** shown in 1929-30 has been converted
††1·50 into a deficit of 2 crores.†† The abnormality of the current budget makes
it an insecure basis for estimating the result of the adjustments which will
be required in the relations of the Centre and the Provinces, and the subsequent paragraphs will furnish proof of the great difficulty we must encounter in gaining a clear financial perspective of the effect of the constitutional changes now under discussion.

5. If the Provinces are to become autonomous, it will be necessary to place them in possession of resources secured to them by statute, and to consider what power, if any, the Centre (however constituted) should have to call upon these resources in a national emergency. On the other hand, separation of finance must be complete in the sense that the finances of the Provinces must be self-contained; we must envisage the end of a situation in which Provinces can feel that they have a right to rely on Central assistance in the event of a breakdown of their own finance. The allocation of powers and resources must obviously be such as to recognise the strength of the claims which the spheres of action assigned to the Centre and the Provinces respectively entitle them to make upon the total available finances of British India. Viewing the total sum available as a common pool, it is legitimate to regard the demands of the Centre upon that pool as normally definable and subject to limitation, since supply is required by it mainly for charges such as Defence, Debt Services, and the comparatively restricted sphere of Central Civil Administration. It must at the same time be accepted as an axiom that the dominant importance of the safety and credit of India requires that the Central demand for supply should constitute a prior charge. Moreover, the means available to the Centre must be adequate to fulfil additional demands due to emergencies, such as frontier war or economic depression. Such demands, it is suggested, ought normally to be capable of fulfilment from within the Central field of taxation. Although it is possible to give the Centre a power of precept upon the incomes of the Provinces in such emergencies, in practice this would create great difficulties because a sudden derangement of their administrative and other activities would probably result, even to the point of a breakdown. While the scope of Central demands is thus to a large degree measurable, the demand of the Provinces must, on the other hand, be regarded as unlimited, since they are concerned with all the important activities necessary to national development. For the present purpose however it is to be noted that there are two immediate claims which take priority over this more general claim. The first comes from those Provinces

which experience shows to be more or less permanently in deficit or on the border-line of deficit even with the present limited scale of expenditure. There is good ground for feeling that it would be impracticable to give autonomous powers to these Provinces before such a situation is rectified. Secondly, in addition to the maintenance of special provision for the North-West Frontier Province, substantial sums will be required to finance the new Provinces which it is proposed to create, viz. Sind and Orissa. Moreover, when considering the effect of these various claims, it will be necessary to have regard in any calculations to the possibility of the separation of Burma. £ millions

6. It will be apparent from this preliminary sketch that the problem of the allocation of powers and resources as between the Centre and the Provinces resolves itself into three objectives, which in order of priority, are as follows:—

(1) To provide the Centre with (*a*) a secure means of meeting the normal demand on account of the services for which it is responsible, together with an adequate reserve power to raise from its own resources the additional sums which those services may in an emergency require; and (*b*) some additional reserve to meet necessary developments in its own sphere of work (of which Civil Aviation may be taken as an illustration).

(2) To secure to the Provinces, as a minimum, the amounts now available to them, together with the sums required to meet the ascertained deficits of certain Provinces and to establish the newly-created Provinces.

(3) To secure that, when (1) and (2) are satisfied, the main benefits of any improvement in Central finances will inure to the benefit of the Provinces.

7. In applying the principles thus stated, it is of course necessary to abandon the convenient supposition of a common pool, and to take up the concrete problem of the assignment of sources of revenue. Their assignment must be conditioned by the respective spheres of legislative and administrative control, which connotes that, in the main, they will be the same as are shown in Table I above. Such a distribution of sources gives the Centre most of the elastic heads of income, such as Customs, Taxes on Income and Salt. In general these heads have in the past shown themselves to be expanding or readily capable of expansion. The Provinces on the other hand possess heads of income which are relatively inelastic and incapable of expansion. Thus Land Revenue (which is responsible for nearly half the present aggregate income of the Provinces) is permanently fixed in some Provinces, while in others it can be reassessed only at fixed intervals, which in some cases are as much as 40 years. Excise, the second largest provincial head, may with a recovery to normal conditions show some return towards the figure of 1929-30 (namely, 19.44 crores*) included in the table given at page 215 of the Report of the Statutory Commission; but progress in this direction is always liable to be retarded by the tendency of local Legislatures to support schemes of restriction based on a policy of prohibition. With these general considerations in mind, we may now turn to the first question arising, viz. what are the requirements of the first principle stated in paragraph 6 above, and how far is it possible *14·5

£ millions to provide, after its satisfaction, for a surrender by the Centre, either in the present or in the future, of any part of the income which it can draw from the sources assigned to it?

8 It would not be useful to attempt any estimate of the provision required to satisfy the first principle of paragraph 6 except on the basis of existing conditions and modifications which can be clearly foreseen For instance, credit cannot be taken for fundamental reductions in the scale of Defence or for new taxes which cannot be expected to materialise in the immediate future and the yield of which is problematical. In approaching the expenditure side of the current Central budget, it must again be emphasised that the figures shown represent the result of severe economies.
42·17 The principal item, Defence Services, stood at 56 23 crores net 10 years ago,
†34·65 and the fall to 46 20† net is due largely to retrenchment, though also
‡·75 (to the extent of about 1 crore‡) to the fall in commodity prices—a factor
which may prove to be temporary The present budget figure is regarded by the Military authorities as barely satisfying the normal requirements of the Army at its present strength, for it has involved the depletion of stocks of supplies and the postponement of building and other programmes The next largest head, Debt Services, already reflects a substantial proportion of the possible savings by conversion, so that the range of possible decrease in the near future is limited Civil Administration has already
§6 57 been heavily reduced, the figure of 8 76 crores§ net representing a decrease
‖2·06 of 2¾ crores‖ in four years The expenditure side of the Central budget
certainly appears to bear out the Finance Member's description of "fine cut." Furthermore, there are certain more or less visible increases to be accounted for The complete restoration of the pay cuts would cost rather
¶·94 more than 1¼ crores¶ (excluding Railways) We are here considering only
items that can be foreseen apart from the federalising of the Centre; the possible additional cost of the new constitutional machinery due to Federation will be considered in a later paragraph The only offsetting
·45 factor in prospect appears to be the gain of .6 crore through charging
the Provinces with the cost of their Audit and Accounts at present paid for by the Centre On the whole, it seems improbable that obligatory expenditure will decline in the next few years, and even possible that it will rise slightly above its present level

9 Clearly therefore the resources reserved to the Centre must continue to produce no less revenue than is at present available Any margin for transfer to the Provinces must arise either from a higher yield of the existing taxes and an improvement of the non-tax sources, or from the opening up of new sources of revenue An examination of the potentialities of improvement in existing sources is not easily reduced to concrete figures, but one consideration is of relevance Non-tax receipts, especially from the "commercial" departments, have declined heavily under the influence of depression The extent of this decline is shown by a comparison of the figures at page 215 of the Statutory Commission's Report which took credit
††4·69 for 6·25 crores†† from Railways and 2 35 crores‡‡ from Opium In spite
‡‡1 76 of economic depression, tax rates have been so enhanced as to give an actual
§§2·63 increase of over 3½ crores §§ this has involved very high rates and a strain
which it is difficult to maintain An improvement in the position is dependent on world economic recovery, to which India may be expected to react as rapidly as almost any country, railway receipts, for instance, have on previous occasions shown great resilience to a sudden recovery in trade

conditions, and it has just been shown how important a part they can bear in the total Central receipts On the other hand, there are some rather more ponderable adverse factors to be considered Firstly, unless and until recovery takes place, the position is bound to remain somewhat precarious. Thus the trade balance depends on gold exports, a discontinuance of which would affect India's power to finance imports and make serious inroads on Customs revenue Secondly, whether or not there is an early recovery, the following points must be noted Customs receipts are already being heavily reduced owing to the effect of a protective tariff in stimulating a rapid growth of the white sugar industry, while the high protective duty on piece-goods may also produce a deterioration in receipts Currency receipts would be reduced by rather more than 1 crore* per annum in the early years of the proposed Reserve Bank, pending its development of full profit-earning capacity Receipts from Opium (now 63 crore† net) may be expected to vanish after 1935 owing to the policy of restricting exports Moreover, the separation of Burma would occasion a net loss to the Central budget of from 2 to 4 crores‡—the exact amount cannot be stated as several important questions have yet to be settled, but this seems a safe estimate of the probable range. Thirdly, the scope and rapidity with which the effects of recovery would be felt are subject to further limitations Some 13 crores§ of revenue in the current budget are attributable to the recent "emergency" surcharges on Customs, Taxes on Income, and Salt A reduction in the present high rates is generally considered desirable, and presupposes a very considerable economic recovery if the present yield is to be maintained at lower rates Again, although recovery should bring about an appreciable improvement in receipts from "commercial" departments, yet in looking at the levels attained in the years of comparative prosperity it must be remembered that the Railways now bear heavier interest charges than in the previous period, their reserves are heavily depleted and must presumably be restored as conditions improve; and even the present unsatisfactory position is arrived at after benefiting to the extent of nearly 1½ crores|| from pay cuts The Posts and Telegraphs Department is also in a less favourable position owing to the burden of revised salaries. To summarise the Central revenue position therefore, it may be said that, without a general trade recovery, the position is not only precarious but liable to some deterioration With trade recovery, the Central position will rapidly improve, but the exact measure of improvement is not predictable, and it is not until we have seen the earlier stages of recovery that we shall be able to determine the extent of the additional resources on which we can count.

£ millions
*·75
†·47
‡1·5 to 3
§9·75
||1·13

10 As regards immediate prospects of opening up new sources of revenue, there is nothing to be added to the conclusions in Chapter III of the Federal Finance Committee's Report These were that a Central excise duty on tobacco grown or manufactured in India could not be relied on to yield any substantial revenue in the near future, that an excise duty on matches was a practical proposition and might yield 2¼ crores¶ in British India, but that no immediately reliable sources of new revenue could be detected in the direction of other excises, monopolies or special treatment of certain stamp duties Though the Central Government (whether Federalised or not) may be compelled to make the attempt to raise fresh revenues by means of new excises, yet it is possible only to conclude that the excise on matches is the sole new tax which can now be taken into account as an immediate reinforcement of Central revenues.

¶1·88

11. Summarising the position at the Centre, it may broadly be stated that everything depends on world economic recovery, and the factors have been given which will be likely to operate on the rapidity or extent to which Central finances will react to recovery. Moreover, in estimating the practicability of utilising any future expansion for the benefit of the Provinces, it must not be overlooked that the reserve power required by the first principle enunciated in paragraph 6 above has to be established; in other words, that a repetition of depression cannot entirely be ruled out of the reckoning. The conclusion may be stated in general terms as follows. The position of the Centre is at the moment such that it has great difficulty in meeting the obligatory demands of Central expenditure, demands which are not in themselves easily susceptible of further reduction. An improvement would therefore be required before it could make the provision required for the satisfaction of the second principle as stated in paragraph 6 above, the cost of which will now be discussed in paragraph 12. A further much more substantial improvement would be required before it would be in a position to provide funds for the satisfaction of the larger requirements of the third principle stated in paragraph 6 above.

12. Turning now to the provision necessary to satisfy the second principle, issues are raised which have occasioned much controversy in the past. The financial settlement following the passing of the Act of 1919 placed considerable additional resources at the disposal of the Provinces and thus depleted the finances at that time available to the Centre. This was adjusted by levying fixed sums by way of "contributions" from the Provinces (except Bihar and Orissa); the method of assessment of these contributions gave rise to much debate and to some contention both between the Provinces and the Centre and between Provinces themselves. It was finally decided to assess them on the amount of the additional revenues which the settlement made available to each Province. As a result, the Provinces which contained industrial centres complained that the assignment of income tax to the Centre deprived them of revenues earned or collected in their Provinces, leaving them only fixed or unexpanding heads of revenue. Those which produced commodities on which an export tax is levied (such as jute) or material on which an excise is levied (such as oil) complained that the assignment of those taxes to the Centre deprived them of sources of taxation which were legitimately provincial. The agricultural Provinces complained that the contribution levied from them did not take into account the need for working up to standards of administration which previous circumstances had made possible for more developed Provinces; and they were also inclined to resent the burdens which, in their view, a protective policy thrust upon them, largely in the interests of industrial Provinces. The contributions were remitted with early effect in the case of Bengal; and the improvement of Central finances, due partly to the gradual reduction of Defence expenditure to more normal levels and partly to the resilience of customs and income tax receipts to the increased taxation imposed in 1922-23, permitted the complete extinction of the contributions of the remaining Provinces in 1927-28. Though this left the Provinces as a whole with larger resources, there remained inequalities between the standards of administration which those resources permitted. That disparity in standards was, in fact, a result primarily of historical developments and of the inequality of natural conditions. Thus, the permanent settlement of land revenue which obtained in some Provinces was less favourable to the development of income than settlements which could in other Provinces be revised in accordance with the

increase of cultivation or the rise of prices. Again, the possession of sources of water supply had enabled some Provinces to improve their resources more rapidly than others less favourably situated. (For example, in 30 years the Punjab has brought about one-third of the cultivated area of the Province under irrigation from State canals.) The resultant disparity in standards is illustrated by a statement given in the Report of the Statutory Commission (Vol. II, p. 223):—

TABLE II.

(1) *Expenditure per head of population according to 1929-30 Budgets in rupees, and*

(2) *Density of population per square mile.*

	Madra	Bombay	Bengal	United Provinces	Punjab	Burma	Bihar and Orissa	Central Provinces	Assam
(1)	Rs. 4·1	8·2	2·5	2·7	5·5	8·6	1·8	3·7	3·9
(2)	279	156	608	427	207	56	409	139	143

13. It was the general conclusion of the Statutory Commission that it would not be feasible to undertake now a radical readjustment of Provincial finance on a basis which would allow of an equalisation of standards as between Provinces. It is almost impossible to evaluate the different factors necessary to such an operation, such as the character of the population, the claims of urban and rural interest, or the effect of differences in administrative methods which have been evolved over a long series of years; nor is it likely that a tribunal could be found the judgment of which would satisfy the rival interests of the Provinces. In any case, the narrow range of finance available seems to leave not alternative to proceeding at present on conditions as they exist in an attempt to satisfy immediate needs. It will presumably be regarded as axiomatic that the position of no Province should be worsened under the new arrangements. There remains the question of implementing deficit budgets, firstly of the existing Provinces, and secondly of the Provinces which it is now proposed to create. The Federal Finance Committee attempted, in paragraph 11 of their Report, to forecast the probable future position of each Province under more or less normal conditions in the future. The result is reproduced in Table III below. As a guide to immediate prospects, however, the figures of the 1933-34 budgets (also given below) are more strictly relevant. These, it should be noted, represent the position arrived at after severe retrenchment in some, though not perhaps all, Provinces.

TABLE III.

Province.	Federal Finance Forecast. (Surplus + ; Deficit –). Rs. crores = £ million				1933–34 Budgets. (Surplus + ; Deficit –). Rs. crores = £ million.			
	Rs. crores		£ million		Rs. crores		£ million	
Madras		– ·20		– ·15	+ ·04		+ ·30	
Bombay		– ·65		– ·49		– ·28		– ·21
Bengal		–2·00		–1·50		–2·19		–1·64
United Provinces ...	+ ·25		+ ·19		+ ·04		+ ·30	
Punjab	+ ·30		+ ·22		+ ·51		+ ·38	
Burma	(No estimate)				+ ·26		+ ·20	
Bihar and Orissa ...		– ·70		– ·53		– ·14		– ·11
Central Provinces ...		– ·17		– ·13		– ·02		– ·02
Assam		– ·65		– ·49		– ·35		– ·26
North-West Frontier Province.	(No estimate)					+ ·04		– ·03
	+ ·55	–4·37	+ ·41	–3·28	+ ·85	–3·02	+ ·64	–2·27
Or deducting Burma and N.W.F.P....					+ ·59	–2·98	+ ·44	–2·27

£ millions

14. It is claimed by the Provinces now in deficit that they are more or less permanently in that state, even at the present reduced scale of expenditure. It is also probable that the sum of their deficits is not likely to be
2·25 much less than the present 3 crores, while the Federal Finance Committee's
†3·38 forecast of about 4½ crores† may perhaps represent an upper limit. It must be remembered that a complete remission of pay cuts in the Provinces
‡1·13 would cost nearly 1½ crores‡ in a full year and that additional expenditure on Accounts and Audit (mentioned at the end of paragraph 8 above) would
§·45 amount to about .6 crore.§ Moreover, increased Provincial expenditure on new Constitutional institutions cannot be less than an annual charge of
‖·33 ½ crore.‖ For the purposes of the present survey it would be safe to assume
¶2·25 to 3 that deficits of not less than 3 to 4 crores¶ are to be expected. This, however, is a mere working hypothesis, and it will not be possible to state the exact sum necessary to obviate these deficits until an examination of the facts has been made by some competent authority, which should, it is suggested, take account only of actual commitments, and not of general needs or projected programmes of expenditure. It may be noted that there are certain outstanding questions of accounts between the Provinces and the Centre referred to in the Percy Committee Report, of which the pre-Reform irrigation debt may be taken as an illustration. The accumulated deficits of certain Provinces also constitute an "overdraft" of considerable size on the Centre. It is desirable that the adjustment between the Centre and the Provinces should now be final, and it may perhaps be indicated to the authority above mentioned that it should make recommendations which would secure this result. Finally, there are the requirements of the new Provinces of Sind and Orissa to be implemented. Estimates of the amounts involved are given in the Appendix to the Report of the Third Round Table Conference on Federal Finance (pp. 60-61 of Cmd. 4238). For about seven years Sind
·60 would require .805 crore per annum, and during the succeeding eight years it is anticipated that the amount would gradually be reduced to zero. Orissa
††·21 is likely to require .285 crore†† at first and .35 crore‡‡ after about 15 years.
‡‡·26 Against this may be set the probability that the separation of Sind would leave Bombay free from deficit, and that the surplus position of Madras would be slightly improved by the separation of Orissa. Altogether, it is possible that the provision required for deficit and new Provinces may
§§3 and 3·75 amount to between 4 and 5 crores.§§

15. It is necessary to consider whether this provision must come entirely from the Centre. Provincial revenues are more stable than Central in the sense that they react less quickly to general causes such as economic depression, but they are consequently likely to respond less quickly than Central to an improvement in general conditions. For these reasons it is difficult to rely on the possibility of economic recovery so increasing the yield of provincial resources as to supply the funds required to meet the immediate shortcomings described in the preceding paragraph. The possibility of raising revenue from new sources was examined by the Federal Finance Committee (Chapter III of their Report). They concluded that Provincial taxation of tobacco was not likely to provide much new revenue in the near future, though eventually it might be useful; that succession duties and the taxation of agricultural income (in addition to land revenue) are so controversial as to be unreliable in planning for the future; and that terminal taxes would have to be strictly safeguarded, and should not be regarded as a normal source of revenue. It was their general conclusion that "such provincial taxes as appear to be within the range of practical politics in the immediate future cannot be relied on to yield any substantial early additions to provincial

revenues." It seems to follow that the fulfilment of the second principle enunciated in paragraph 6 above must depend very largely on the ability of the Centre to make over the requisite funds. The review of the Central position which was concluded in paragraph 11 shows that the discovery of the necessary margin depends on the initial recovery of the Central position. Even a decision to defer the institution of the two new Provinces would not appreciably alleviate the situation. £ millions

16. Assuming, however, that funds will at some time become available for the satisfaction of the second principle of paragraph 6, it remains to discuss the methods by which they should be distributed among the Provinces. The first method is the grant of subventions, whether permanent or terminable. The second is the allocation of the proceeds, in part or whole, of some Central head or heads of revenue, an addition to which is the grant of power to surcharge particular Central heads. There are really two stages to be considered in the grant of assistance to the Provinces, i.e., the initial stage of implementing deficits and the secondary stage of placing additional resources at their disposal which will allow of their future development (the third principle of paragraph 6). It will perhaps be agreed that the method of direct subvention is more appropriate to the first stage. At this stage a logical distribution of particular heads on some principle such as that of population is likely to involve a greater draft on the Centre, because some benefit is almost certain to be conferred where it is not essential. Perhaps the only obvious exception to this observation is afforded by the possible allocation of revenue from the export duty on jute. That may be represented as based on considerations of convenience rather than of principle, in view of the peculiar position of Bengal. Its deficit is large, and will clearly continue. The allocation of proceeds from the duty on jute would be mainly confined to Bengal itself; half the duty would cost the Centre about 1.5 crores,* giving Bengal about 1.35,† Bihar and Orissa .1‡ and Assam .05.§ The chief apparent objection to subventions is the evident breach in the general principles of provincial autonomy which they involve. On the other hand, their claim is strong when finances are so straitened, while some breach in the autonomous principle seems inevitable even on the alternative plan, since it seems necessary that any of the present Central taxes, even if distributed, must form the subject of uniform Central legislation. Some of the considerations affecting distribution on the basis of specific heads of revenue will be apparent from the succeeding paragraph.

*1·13
†1·01
‡·08
§·04

17. The third principle advanced in paragraph 6 has now to be considered. As already indicated, the provision of means for the future development of the Provinces must depend partly on their capacity to exploit their own rather restricted sources of revenue, but in the main must depend on such improvement in Central finances as will permit the assignment to the Provinces of resources available in excess of the requirements of the first two principles. A further difficult field of enquiry is now revealed, and it will perhaps be convenient to state the problems very briefly as a series of questions to be answered. *First*, is it feasible in present circumstances to lay down any scheme of dates which the distribution of resources should follow? The Federal Finance Committee concluded, in a slightly different connection, that in effect no prescription of dates at which the Centre could dispense with revenue was possible. The developments since they reported, as reflected in the later facts quoted in this note, will perhaps be felt to confirm this conclusion. *Second*, if this be agreed, what authority shall decide when the time has come at which assignment may properly commence, by what methods, and to what extent? (Conversely, if there be a programme,

what provision must be made for its suspension?) The difficulty of placing the decision on the Central Executive, whether this is federalised or not, lies in the fact that the interests of the Centre and the Provinces may here be held to be in conflict. The alternative is an Order in Council, and there may be held to be justification for this in the fact that His Majesty's Government would not merely be acting in an arbitral capacity, but would be concerned in safeguarding what must here be the dominant consideration, the stability of Central finance. *Third*, on what basis should shares be allocated to the Provinces, and from what sources of revenue? This question raises highly technical issues and also impinges on the field of inter-provincial controversy to which allusion has been made in paragraph 12.

The problem is complicated, contentious and difficult to state briefly. Arbitrary subventions will doubtless be recognised to be out of place in this connection. The method of permitting local surcharges upon Central taxes would only possess advantages if the basic rates on which such surcharges were founded were so moderate as to enable surcharges to be imposed at a figure likely to yield real benefit to Provinces. The rates are at present too high to allow of any effective imposition of Provincial surcharges, and the method must be deferred until the position of the Centre permits of its adoption as one of the means by which a Central surplus can gradually be passed off to the Provinces. It would then have a definite value as allowing Provinces to vary (within prescribed limits) the pitch of their taxation to suit their own needs. In the meanwhile discussion must centre chiefly upon the distribution of heads of revenue centrally raised. If it were decided to distribute the revenue from salt, no problem of great difficulty would arise, since distribution would no doubt follow consumption; but hitherto discussion has, for various reasons, turned on the distribution of income tax. Here we at once re-enter the field of controversy regarding the claims of the industrial and agricultural Provinces, the former demanding that their position as main producers of this tax should be considered before any general distribution takes place. But apart from the counter-claims of the agricultural Provinces, who base their claim chiefly on the needs of a large and backward population, there are serious technical difficulties in attempting to trace the geographical derivation of income tax. A reference to paragraphs 59 to 75 of the Percy Committee Report will explain some of these difficulties and at the same time provide details of a suggested scheme of allocation which attempts to pay regard to both points of view. It is necessary to state here that expert examination of the basis proposed by the Federal Finance Committee reveals some practical difficulties in the application of its details, though these may perhaps not be found to be insurmountable. On the whole, perhaps the most hopeful line will be found in the distribution in the first instance of income tax, proceeding on an agreed basis which will recognise the incidence and the derivation of the tax, while contemplating that at a later stage we may proceed to the distribution of some indirect head of revenue, such as salt.

18. Is it possible to go beyond this picture, in which the uncertainties occupy so much of the foreground? One can only attempt greater precision with much reserve. The question with which Part I of this note is concerned is the introduction of provincial autonomy. It may perhaps be asked why it is assumed that income must be increased in order to find the additional sum required to implement provincial deficits, since the expenditure is actually being incurred already. But it is being incurred against loans taken from the Centre, and in some cases at least there appears to be some prospect that the Provinces may never be able to repay these "overdrafts"

which they have secured to finance their deficits. The constitution of the Provinces as separate financial units on the one hand implies the withdrawal from the Centre of any responsibility for the stability of provincial finance, and of any authority to ensure this; on the other, it implies that Provinces must be placed in a position in which they can, without borrowing, meet their current obligatory expenditure, including the discharge of the service of loans already secured by them. Moreover, some part of the sum required (i.e., that needed for the new Provinces and for the new legislative institutions) represents an actual addition of new expenditure. £ millions

19. It may be convenient to conclude this section with an attempt to evaluate rather more precisely than was done in paragraph 11 the general effect of the various factors to which reference has so far been made. So far as the Centre on its present basis is concerned the Budget is balanced, but no weakening of Central resources *in present circumstances* seems permissible. Before the first principle put forward in paragraph 6 could be regarded as satisfied it might be necessary to stipulate at least that the pay-cuts should be remitted (involving the provision of about 1¼ crore*) and *·94 that the emergency surcharges should be withdrawn. The latter postulates that the amount of over 13 crores† at present attributable to the sur- †9·75 charges should, owing to economic recovery, be produced by taxes at unsurcharged rates. It may be assumed roughly that other prospective debit and credit items at the Centre will strike a balance. Thereafter the question of creating new Provinces, including the separation of Burma, has to be considered. For this purpose further improvement of the Central position would be necessary up to a point at which sums, the range of which may be placed roughly at 6 to 8 crores,‡ could safely be spared. It must ‡4·50 to 6 be realised that, even with this provision, some of the Provinces, and in particular those which have effected drastic economies, will start off on a bare subsistence level. Whatever the precise value of these figures, it is in any case clear that some considerable betterment of Central finances, and on an assured basis, must take place before the Centre can make the surrenders necessary to establish the Provinces as independent financial units on such terms as will allow them to rest securely on their own resources.

PART II.

20. It has been possible to deal separately with the financial adjustments rendered desirable by the creation of autonomous Provinces because the federalising of the Centre will not (save in respect of some items of comparatively less importance which will be subsequently noted) itself involve any immediate change in the expenditure budgets of the Centre or the Provinces. Indeed, it may be found that the task of the Select Committee, in dealing with the financial aspects of Federation, will, owing to the exigencies of the financial position, have to be confined in the main to discussing certain important matters of principle pre-conditioning Federation, rather than adjustments of figures of a similar range to those dealt with above.

21. It will be necessary in the first place to examine the present position of the States in relation to Central finance. The only direct contribution now made by the States to British India finances is the sum of .74 crore§ §·56 shown in Table I under the head "Payments from States." These payments have in previous discussions been referred to under the general name of "tributes." The Report of the Indian States Enquiry Committee (1932) shows that the sum of .74 crore§ is the aggregate of a number of payments

£ millions mostly secured by treaty, but various in origin. Some payments are due to specific causes, that is to say, they represent fixed cash contributions in lieu of the maintenance of a State army, whether under British or Indian State command, or in quittance of the grant of assistance by maintenance of forces for the preservation of law and order in the locality of the State. Others represent tributes originally paid to other States but acquired by the British Government through conquest or lapse. Others again are of a more general nature, repesenting contributions in acknowledgment of sovereignty. There is no uniform system of "tribute." The list of contributing States is a long one, but the sums paid are of very unequal amount, one State (Mysore) paying as much as one-third of the whole, while many States, including some of the most important, pay no contribution at all.

22. The Davidson Committee also dealt with another class of contribution which, though it does not appear among the figures of Central receipts, is claimed to have a common origin with "tributes," namely, the territories "ceded" in the past to the British Government by five of the States in return for specific guarantees of military protection, in preference to paying a fixed cash "tribute." The grounds for treating such cessions as analogous to cash contributions have been fully discussed in Chapter IV of the Committee's Report, and the Committee of the Third Round Table Conference on Federal Finance accepted the view that some form of relief was required in respect of them (page 56 of Cmd. 4238). It was held that retrocession of the ceded territory was impracticable, and that the alternative to retrocession would be the payment to four States of annuities amounting to .37 crore* of rupees. No calculation was made of the value of the areas ceded by Hyderabad as that State asked that the military guarantee for which it ceded territory should continue in being.

23. The Davidson Committee further ranked as a "miscellaneous contribution" the voluntary maintenance of State Forces, available for use on the mobilisation of the Indian Army. Here also no uniform system has been followed, and units maintained are unequally distributed between the States. The total annual expenditure is said to amount to 2 crores† of rupees; but valuable as is this voluntary contribution to the military strength of India, the amount mentioned cannot be quoted for the purpose of any financial adjustment, as it takes no account of the sums contributed by the British Government through the supply of arms, &c., nor would State Forces, even where they attained a level of efficiency necessary for modern warfare, be necessarily required for purposes of general defence. There are other minor contributions of a miscellaneous nature (railway and cantonment lands, &c.), which can be neglected for the present purpose.

24. The Davidson Committee passed from the consideration of direct and indirect credit items to what are potentially debit items, described under the terms "privileges and immunities." Briefly, these constitute financial advantages which individual States enjoy, by Treaty or Agreement, in respect of certain sources of income which, under Federation, would normally be at the unrestricted disposal of the Federation itself. Thus under a developed Federal system, all receipts from the salt monopoly would accrue to Federal revenues; but certain States enjoy privileges in regard to manu-
‡·29 facture or sale of salt, which have been valued at .38 crore,‡ or, if the
§·35 special case of Kathiawar and Cutch be included, at .46 crore§ annually. Similarly, with regard to customs certain States enjoy by Treaty or Agreement advantages which are of great financial importance to them. The

Committee examined these advantages at length but found that, in the present unstable condition of trade and uncertainty as to the issue of discussions still in progress regarding the interpretation of treaties, it was impossible to supply a reliable estimate of their future value for the purpose of buying them out. The value of the immunities enjoyed by 14 of the Maritime States amounted in 1931 to 1.80 crores,* but may since have decreased with the decline in imports. The adjustment of these advantages will have to remain for settlement during the process of negotiating instruments of Accession to Federation. It may be contemplated that if the demands made by individual States for compensation on extinction of these advantages involve too great a burden on Federal finances, it will not be possible to include those States in the Federation.

£ millions

*1·35

25. These remarks have reference to the financial position of certain States as Governments. The subjects of most of the States make a substantial, though indirect, contribution to British India finance on account of sea customs. Thus the Butler Committee (quoted in Statutory Commission, Vol. II, p. 271) suggested that the share taken by them of imported goods might be reckoned at about 16 per cent. of the total consumption and the share of customs duty paid in the States has since been computed by a Government of India Committee at one-seventh of the total. There is also some indirect contribution through salt purchases, and a more indirect contribution through currency profits and profits of trading companies earned in the States but brought to account in British India. These figures were of some relevance at a period before Federation had come under discussion, since the States had then claimed that they were entitled to a share of the customs duties of which the incidence might rest upon their subjects; but they are of less relevance now that customs, salt and currency receipts may be viewed as Federal and not as potentially divisible between States and British India. On the other hand it is proper to remark that the States point out that they are also as Governments concerned in the receipts from customs duty. The States Governments import a considerable amount of railway, electrical and irrigation plant. They claim that by Treaty they are entitled to Defence without any payment to the British Government (other than the Tributes paid by individual States), and that this contribution to customs duty does in effect constitute such a payment. By entering Federation they would sacrifice the claim which they have hitherto advanced that they should receive a refund of these payments.

26. The discussions relating to Federal finance at the Round Table Conferences were long and intricate, and turned in part on arguments of a somewhat theoretical nature. Thus it was sought to redistribute proceeds of taxation on the assumption that the most appropriate field of Federal revenue lay in indirect taxation, leaving direct taxation to British India units. But, as the figures given above appear to show, the receipts from income tax are (at all events at the present) so far necessary to Federal solvency that their allocation to British India units would probably have to be only nominal. The latter would almost certainly have to pass them back to the Federal Government. Again, it was at one time sought to establish some difference between that portion of the Public Debt for which commercialised or similar assets exist and that which is uncovered by assets of this nature. It was suggested that since the Federal Government would take over the assets to which the first class of debt might be related it should properly be liable for the service of that debt, while the British India units should be liable for the second class, sufficient income tax being

retained by the Federation to cover the relevant charges. Subsequent discussions show that many debatable questions arise out of this proposition; in fact the suggested division is artificial and divorced from the realities of the position, since the public debt stands as a whole secured, not on definite assets, but on all the revenues of British India. It may certainly be argued that part of the uncovered debt has been incurred for all-India as distinguished from British India purposes. Difficulties, though of a somewhat different nature, arose from the attempt to discriminate between pension charges which could be considered properly as Federal or as British Indian, but here, as the charges are rapidly diminishing and it would be almost impossible to determine the proper incidence of pensionary charges, no useful purpose would be served by pursuing this line. These suggestions were not fruitful of results because they did not in themselves afford a means of satisfying either the States or British India units that the real conditions which they envisage as necessary to their entry into Federation could be fulfilled.

27. These conditions may now be stated as follows. The States desire an assurance of the solvency of the Federation before they enter it. This implies not only a present capacity to pay for existing charges, such as defence and the service of pre-Federation debt, but a reasonable assurance that commitments to the British India units are not likely to place Federal finances in a position which will involve a future demand for increase of Federal taxation in order to maintain solvency. Such a demand might possibly go beyond what could be met by increase of indirect taxation and thus involve a requisition for direct contributions in some form from State units. The Provincial units, on the other hand, are interested in seeing that the commitments to the Provinces are not unduly limited in the interests of Federal solvency. Moreover, responsibility for the future policy of the Federal Government, and the financial consequences thereof, will and should be a mutual concern. The Provinces therefore are interested in obtaining from the States some recognition of the principle of "equality of burdens" in Federation. This does not necessarily mean that the States should make a contribution to Federal finance proportionate to that derived from British India. That would in any case be difficult to calculate, because we should have to set off, *inter alia*, the indeterminate amount of indirect contributions referred to in paragraph 25 above in some attempt to equate burdens with the still more indeterminate factor of benefits; and indeed, as the Davidson Committee point out, the true contribution of the States cannot be weighed in terms of money, since they put into the scales a portion of their own sovereignty. But the Provinces point out that the Federation, in taking over what are now Central sources of revenue, would take credit not only for revenues derived from what may be considered essentially Federal assets, such as customs and salt, but also revenues derived from a head such as income tax, which, but for the overriding necessities of Central finance, might normally go in whole or part to the Provinces from which they are derived. As a reply to this, the States have urged that one of the chief contributory causes of stringency at the Centre will be the erection of new and the continued subsidy of existing deficit Provinces. For these the States have undertaken no responsibility, and they are not asking themselves for any subsidy even to the poorest of the States.

28. In effect, a compromise solution must be found in the answers to the following questions. *First*, will the finances secured to the Federal Government be sufficient to meet the charges which it is known will fall

on it at its inception? *Secondly*, will any contemplated assignment to the Provinces of shares of future improved revenues involve the likelihood that the maintenance of solvency in the future will place a direct burden on the States? *Thirdly*, is it possible to obtain from the States an agreement to pay some contribution which will recognise the position which has been put forward above as that of the British India units? £ millions

29. In seeking an answer to the first question account must be taken of the Central Budget as it will stand after making provision for deficit Provinces and new Provinces, for this will not have been the consequence of Federation, but of the institution of autonomous British Provinces. Some addition must be made for the charge which will fall on Federal finances by the establishment of a Federal Court, and the cost of the contemplated Federal Legislature over that now incurred on the Central Legislature; this has been calculated by the Government of India at from ½ to ¾ crore* of rupees, though it is possible that the cost of this item may *·38 to ·56
be somewhat reduced by the States paying their own representatives instead of allowing them to be paid from Federal revenues. Allowance must also be made for the charge which would fall on Federal revenues if the States' contributions described in paragraph 21 above were extinguished. There has been a general agreement that "there is no permanent place for such exceptional and unequal contributions in a system of Federal finance" (paragraph 26 of page 96 of Cmd. 4238). The Round Table Conference suggested that their extinction should be completed within 20 years, and that a moiety at least should be extinguished within 10 years; or, in any case, that the whole should be extinguished in a period not longer than that during which the Federal Government would complete surrender to the Provinces of the share of income tax which it was then proposed it should necessarily relinquish. (Reasons have been given above for holding that it may not now be feasible to consider a surrender of the same extent or within the proposed period.) The sum of .74 crore† representing the †·56
"tributes" would in any case be reduced by the amount of the "immunities" enjoyed by the individual States paying tribute. (See for fuller explanation paragraph 443 of Report of the Davidson Committee.) It should be emphasised in this connection that though British India is concerned with the aggregate of State contributions and immunities, the States must enter Federation as separate units; the debits of one State cannot be set off against the credits of another, and a balance sheet will be required in the case of each individual State. The resultant cost to Federal finance will have to be determined by further examination, but it will be less than the sum of .74 crore‡ now credited to Central revenues. ‡·28
Provision has also to be made for the credits to certain States on account of ceded territory (paragraph 22). The estimated amount of .37 crore‡ would be reduced by the value of any immunities now enjoyed. Though the acceptance of these claims might constitute a condition precedent to entry to Federation, it might perhaps be decided to spread their actual satisfaction over a period of some length. Moreover, since these contributions are at present an integral part of the resources by which the solvency of British India is preserved, it will probably be contended by the Provinces that any breach in that position as a result of their remission can hardly be charged to British India alone and should fall in part on Federal revenues. This argument, it is true, may find a reply from the States that the tributes are due to the Crown and not to British India (see Davidson Report, paragraph 37) and that the cost of the new Provinces alone exceeds the amount to be remitted on account of tributes and

ceded territories. As regards the treatment of other immunities and privileges (other than those which come into account as a set-off against the extinction of "tributes" or credits for ceded territories) somewhat different considerations apply. The general principle, applicable throughout, was stated by the Federal Finance Committee of the Third Round Table Conference (Report, paragraph 28) as being that "each State coming into Federation should, as far as possible, assume liability for an equitable portion of Federal expenditure." This general principle is one which will no doubt be brought before the Joint Select Committee for discussion; but, as suggested in paragraph 24 of this note, the final detailed treatment of the complicated questions arising cannot substantially affect the Budget as it will appear at the inauguration of Federation.

30. If, however, the considerations advanced in Part I of this note are correct, the creation of autonomous Provinces will not be possible until there has been a considerable betterment of Central revenues; the charges referred to in the preceding paragraph will impose an additional demand which will presuppose a somewhat larger Central balance as a preliminary to Federation, even though the gross amount of this addition may be reduced by spreading out the period for the extinction of tributes or payment for ceded territories. Even, however, if improved conditions make it possible to discharge these combined obligations without actual deficit to the Central budget, the States may possibly press that the Centre can only be said to have arrived at that state of "solvency" which justifies Federation when the improvement recorded is such as to leave some margin for safety within the region of Central finance.

31. As to the second question proposed in paragraph 28 the considerations advanced in Part I of this note point to the conclusion that any assignments contemplated in favour of the British India units must be viewed as the promise of future drafts on a Federal surplus; that surplus can only come to hand at a further stage of recovery in advance of the initial stage which is required to satisfy the conditions precedent to Federation. It is here possible only to make the point that the facts revealed regarding the present Central position may dispose the States to press that any assignments to British units now laid down for future operation shall be on a scale compatible rather with the requirements of Federal stability than with the desires of the Provinces; they are likely also to lead them to scrutinise carefully the character of the authority empowered to decide when the assignments shall become operative (paragraph 17 above). It is further pertinent to emphasise here a conclusion which is implicit in previous paragraphs, that in making assignments it will be necessary to make provision for the proper "balance" of Federal finances. The alienation of an undue share of sources of direct taxation (e.g., income tax) would leave Federal finances at a disadvantage if indirect sources (e.g., customs) were affected by trade depression or by a protective policy, even admitting that some part of the loss resulting from a successful protective policy would be made good by increased receipts from income tax. This is a consideration of importance to the maintenance of Federal solvency, but it is not purely financial. It is essential that the Federal Government, in discussing tariff policy, should be able to weigh the results of that policy on its general finances and must have adequate control over both sources of income, direct and indirect, in order to give effect to its policy.

32. In regard to the third question propounded in paragraph 28, the Provinces may contend that the general claim put forward by British India units (paragraph 27) would be reinforced by the surrender of tributes and

the payment of annuities of ceded lands. That loss would not have accrued to existing British Indian revenues as the result of constituting autonomous Provinces: it is incidental to the institution of Federation; and, though the relief granted will admittedly accrue to the benefit of individual States, yet British India units might perhaps press for a contribution from the States as a whole equivalent to a loss which has not been due to the requirements of British India units. There may be some hesitation on the part of non-tributary States in accepting the principle of this claim; but the contention of British India would to some extent be met by the agreement of the States recorded at the Third Round Table Conference (paragraph 8 of the Report of the Federal Finance Committee of the Conference of 1932). The States have throughout been opposed to the application to them of any form of direct taxation, but they then agreed (though with some dissentients) to assume the burden of a "corporation" tax (i.e., tax on profits of companies) as from the date on which the Federal Government would complete surrender to the Provinces of the share of income tax which the Conference proposed to assign to them. It must be mentioned, however, that this agreement was linked up with the condition that "a satisfactory yield from taxes on income is permanently assigned to the Federation." That condition takes us back to the answer which can be given to the second question (paragraph 28), and does not refer to the particular argument given in the earlier part of the present paragraph. The agreement was also subject to the condition that, the assessment on the companies having been made, the State may raise the amount due to the Federal fisc by any method it may choose, and not necessarily by the actual levy of the tax. This condition would avoid direct taxation, though it is perhaps useful to note that circumstances might be held to require that in the interests both of companies and of Federal finance, assessment should be made by an agency of the type of that now employed on the assessment of this tax in British India, and that some arrangement should be made for hearing assessment appeals by an authority of a type similar to that now available to companies assessed in British India. £ millions

33. It is not easy to assign a precise value to the benefit which Federal finance will receive from the payment of a "corporation" tax by the States, but it will clearly not be considerable. Its importance lies rather in the concession of principle. Indeed, although the adjustment of tributes, immunities, and the like, are of the greatest political importance, and the concession of a corporation tax also possesses its own value, these questions, even if satisfactorily settled, will not have any decisive bearing on the solution of the main difficulty described in Part I of this Note. That solution must be found in the rehabilitation of Central finance; Federation, even on the most satisfactory terms, will not itself assist in its achievement.

PART III.

34. It may be useful to summarise here the proposals of the White Paper for dealing with the allocation of revenues. It will be seen that while Paragraph 187.
retaining for the Federal fisc the major and exclusively Federal heads of revenue such as Customs and Railway receipts, it provides that, as regards a second class, namely, salt, Federal excises (e.g., oil) and export duties (e.g., jute), the whole or part of the net revenues derived from any one or more of these sources may be assigned to the units, while in the case of the export duty on jute the assignment to the producing units would be compulsory and would amount to at least 50 per cent. of the duty. As shown in paragraph 16, Bengal would on present figures receive about 1.35 crores,* *1·01

£ millions
·04 Assam about .05 crore, and it .1 crore,† or a total
†·08 loss to Federal revenues of 1 ignment would propor-
‡1·13 tionately reduce the claims o initial subventions on
account of their budget deficit ictly provincial sources
Paragraph 138. secured by the Constitution Act re would be empowered
to impose and assign for the nces certain sources of
revenue, viz., death duties, terminal taxes on railway-borne goods or passengers, stamp duties subject to all-India legislation at the time of federation, taxes on mineral rights and personal taxes on capital other than land; the Federal Legislature would determine the basis of distribution to Provinces. In the main these taxes represent only potential sources of income of which it is not at present possible to estimate the benefit, and they cannot be taken into account in estimating the position now or in the immediate future. It is also proposed that the Federation shall be empowered to impose and retain a surcharge on such taxes for Federal purposes.

Paragraph 139. 35. The major addition proposed to the existing provincial resources consists in the allocation of a share of not less than 50 per cent., but not more than 75 per cent., of the income tax, excluding the tax on profits of companies, and excluding also sums derived from taxes on emoluments of
Paragraph 140. Federal officers or taxes collected in areas federally administered (Delhi, etc.). The exact figure will be prescribed by Order in Council, which will be laid before Parliament for approval. A scheme is laid down for progressive surrender of this source of income, to be completed in 10 years after the commencement of the Constitution Act: but the process of surrender in whole or part may be deferred at his discretion by the Governor-General, if he considers, after consultation with Federal and Provincial Finance Ministers, that the continuance of the process for the time being would endanger the financial stability of the Federation. It may be mentioned
§12·94 that out of the present income tax revenue of 17½ crores,§ approximately
‖2·63 3½ crores‖ represent corporation tax and income tax on the emoluments of Federal officers or attributable to federally administered areas. Of the
¶7·88 remainder, 10½ crores¶ would come for distribution under the proposed
2·44 system of sharing with Provinces, the balance of 3¼ crores being ranked as a Federal surcharge, as will presently be mentioned. The amount of each of these items would be reduced by about one-eighth if Burma were separated.

Paragraph 141. 36. The Federation would have power to impose for its own benefit surcharges on the income tax, and no part of these surcharges would go to the British India or State units. While such surcharges were in operation each State member of the Federation would, unless it had agreed that the Federal income tax should extend to the State, contribute to Federal revenues a sum to be assessed on a basis prescribed by Order in Council. As an exception to this, no contribution would be required from the States if the present emergency surcharge (which would rank as Federal) were
Paragraph 142. still in force. Finally, it is proposed that the Federal Legislature should be empowered after an expiry of 10 years after the commencement of the Constitution Act, to extend the corporation tax to the State members of the Federation. This may, if the State prefers, be collected directly from the State and not from the companies concerned. (On this see paragraph 32 above.)

37. The Appendix attached gives certain figures which, though only approximate, may be found of some use in an attempt to evaluate the financial significance of the White Paper proposals relative to the Central Government's position as sketched above. As regards these proposals, discussion will no doubt be mainly directed to the proposal to leave income tax as a Federal source, while assigning a certain share to British India

units, to the proposed extent of the assignment, and to the proposal to fix dates, as from the commencement of the Constitution Act, for the operation of the assignment. A second point will be the proposal to make compulsory the assignment to certain Provinces of a fixed portion of the jute duty; a third will be the measure to which the levy of a corporation tax (in the manner proposed) will meet the claim of British India for a States' contribution to Federal finances. But apart from any questions of this nature which may arise in consideration of the scheme as set out in the White Paper, or indeed of any scheme involving surrender of Central revenues, it may be felt necessary to examine the fundamental questions whether financial conditions are such as to affect any assumption we may make as to the date on which provincial autonomy can be introduced; and further, whether we can assume such further general recovery as will enable us now to plan out the lines of a Federation on terms which will satisfy the States on the one hand that their financial future under Federation is secure, and British Indian units on the other that under Federation they can hope to obtain the funds to which they look for development. In considering these questions, the assumptions made in paragraphs 19 and 30 regarding the extent of the requisite improvement in Indian finances will, if accepted, have an important bearing. Attention is also invited, in this connection, to the second half of paragraph 60 of the Introduction to the White Paper,* and to the Secretary of State's remarks in the House of Commons on 22nd February last.†

* "His Majesty's Government attach the highest importance to securing to the Federation adequate resources, without which the Federal Government cannot ensure the due fulfilment of liabilities upon which must depend the credit of India as a whole.

"A possibility which cannot be dismissed from consideration is that economic and financial conditions might on the eve of the inauguration of the new Constitution be such as to render it impracticable to supply the new Federal and Provincial Governments at the outset of their careers with the necessary resources to ensure their solvency. If, after the review contemplated above, the probability of such a situation should be disclosed, it would obviously be necessary to reconsider the position, and it might, *inter alia*, be necessary to revise the federal finance scheme contemplated in these proposals."

† "Having made these two general observations, let me take my hon. and gallant Friend's points in order. He says, first of all, that the state of Indian finance will not admit of setting up a Federal Government at the centre. I agree with him that the state of Indian finance, much improved as it is, is not yet as satisfactory as we should desire. I agree with him further, that if an attempt is made here and now to finance the Federal centre, and finance at the same time autonomous Provinces, it will be very difficult to find the money. I do further say that it is impossible for us to-night to forecast the exact position when the act of Federation takes place. I further say to him, and I hope this may to some extent reassure him, that I do not suppose anybody here, or indeed in India, will be prepared to bring Federation into being if it is quite obvious that the Federation will be insolvent. My own view, which is supported by many of my expert advisers, is that the Federal Government would not cost substantially more than the existing Central Government, and that the problem of adjusting finances between the centre and the Provinces is much the same whether Federation is set up, whether Provincial autonomy is started, or whether we keep the centre as it is now."

APPENDIX.

(1) WHITE PAPER PROPOSALS.

	Rs. crores	= £ million
(a) *Deterioration.*		
(i) Cost of new or enlarged constitutional machinery	Say 1	·75
(ii) Alienation of half jute export duty (present yield)	1½	1·13
(iii) Subventions to deficit and new Provinces (additional to (ii))	Say 2½	1·88
(iv) Alienation of income tax (assuming Burma not separated):—		
(a) 50 per cent.	About 5¼	3·94
(b) 75 per cent.	About 8	6·00
(v) Settlement of States' excess contributions ...	About 1	·75
(b) *Improvement.*		
(i) States' payments under corporation tax or surcharges	(?)	

(2) CENTRAL BUDGET.

	Rs. crores	= £ million
(a) *Deterioration.*		
(i) Loss of opium receipts	·6	·45
(ii) Decline in customs...	(?)	
(iii) Loss of currency receipts	Say 1	·75
(iv) Restoration of civil and military pay cuts ...	About 1¼	·94
(v) Separation of Burma	Say 3	2·25
(b) *Improvements.*		
(i) Excise on matches	About 2½	1·88
(ii) Other new taxation (small)	(?)	
(iii) Improvement under loan charges (small)	(?)	
(iv) Saving under Accounts and Audit	·6	·45
(c) *Other factors retarding effects of recovery.*		
(i) Withdrawal of emergency surcharges	About 13	9·75
(ii) Restoration of railway pay cuts	About 1¼	·94

Statement by the Secretary of State for India on the subject of Federal Finance.

Sir Samuel Hoare: My Lord Chairman, this is one of the most difficult and complicated questions that we have got to consider. It is difficult in itself, but it is made ten times more difficult by the conditions in which we approach it. Obviously, with the state of the world as it is, with the financial and economic uncertainties that face us, it is extraordinarily difficult to make even general estimates for the future.

Now, my Lord Chairman, there have been many inquiries into the questions that we are here to consider this morning. There was first of all the inquiry carried out by Sir Walter Layton on behalf of the Simon Commission. I think my colleagues will agree that there is no more comprehensive chapter in the whole of the Report of the Simon Commission than the chapter dealing with Finance. Then, after that, came a series of inquiries carried out either by the Round Table Conference itself or by the Percy Committee of the Conference. I suppose that there was no question that gave us more trouble or took up more time in our deliberations in London, and there was no more complicated inquiry connected with the constitutional proposals than the inquiry which was made by Lord Eustace Percy and his Committee in India. Since then we have had a constant interchange of communications between the India Office and the Government of India, and between the Government of India and every one of the provincial Governments. I make this preliminary observation for the purpose of showing to the Committee and the Delegates that from the very first we have fully investigated the difficult problems connected with Federal Finance, and never, from the beginning, have we shirked the formidable issues that they create. My Lord Chairman, with this great mass of material, this series of inquiries, and this flood of statistics in which we have been involved now over many months past, it seemed to you that it would be well to have an objective summary made for the use of the Committee's discussions. You and I had some talk upon the subject, and it seemed to me that the best thing that I could do to carry out your desire and to meet what I believed to be the wishes of the Committee and the Delegates as a whole, was not to put in a memorandum from the India Office but rather to ask Sir Malcolm Hailey to take all the material that is at my disposal and with his experience, quite a unique experience, both as a former Finance Member of the Viceroy's Council and as the Senior Governor in India, who has been Governor of two of the greatest provinces in India, to ask him to make such a summary and to have it circulated to the Committee. The figures in the summary are all taken from the official documents, and the India Office and the Government of India take full responsibility for them. Apart, however, from that, we have left Sir Malcolm Hailey absolutely free to present the statement* in his own way as he thought fit. The document, my Lord Chairman, is before the Committee to-day, and I think we should all say that it is a very full and comprehensive summary; and, speaking for myself, I would say it is just the kind of memorandum that we needed if our discussions are to be instructive discussions in the future. My Lord Chairman, not only is it a very comprehensive document, but it is a document, I claim, that does not shirk any awkward facts; it puts the whole case before the Committee; it does not make light of the financial difficulties in the way of progress, and

* Memorandum entitled "The Financial Implications of (1) Provincial Autonomy and (2) Federation."

it ignores none of the awkward problems that are connected with the question. My Lord Chairman, I imagine that the first impression left upon every Member of the Committee and upon every Delegate is a rather depressing impression. There we see set out in all their nakedness the awkward financial facts connected with the Government of India to-day and the Government of India of to-morrow. Let me allude to one or two of them. Let me take, first of all, the case of the provinces. There, my Lord Chairman, you will see, if you look at the figures, connected with the setting up of provincial autonomy, Sir Malcolm Hailey comes to a general conclusion that the expenditure involved may be something between 6 and 8 crores (see para. 19 of Sir Malcolm Hailey's memorandum). If you analyse the figures you will find first of all that about three-quarters of a crore is needed for the overhead expenses of setting up the new provincial machinery; that is to say, the cost of the provincial legislatures and the cost of the electorates (including ¼ crore for new machinery of government in the new Provinces of Sind and Orissa). Next there is another figure of about half a crore that is involved by the provincial governments taking over certain expenditure that is now borne by the central government. Then there is a further figure of from two to three crores, assuming that Burma is separated from India; and lastly there is a figure of from three to four crores that would be involved if the provincial deficits were to be removed, and the provinces to be set up upon a self-supporting basis. This includes the provision of resources to cover deficits that would otherwise arise in the areas of Sind and Orissa on their being constituted separate provinces.

That comes in all to a figure of between 6 and 8 crores. My Lord Chairman, that looks a very formidable figure, and I will come to analyse it in some greater detail in a moment or two; but let me pass from the provinces to the Federal centre. I think you will find that the expenditure for the Federal centre is a figure of about 2¼ crores. Of this about ¾ crore is for fresh expenditure on the legislature, etc. The other item is a figure of perhaps 1½ crores which would be a temporary budgetary loss on the establishment of the Reserve Bank, due to the proposed diversion of currency profits to the building up of the reserves of the Bank. When these have been built up currency profits should again accrue to Government in the shape of surplus profits of the Bank. In actual practice the building up of a banking reserve ought to have some effect upon the method by which the Indian Federal Government deals with its sinking funds. If they get better credit at one end, they might possibly make some alteration in their sinking fund arrangements at the other. We also have to remember that there is the complicated problem of States tributes, ceded territories and "immunities" which was so fully investigated by the Davidson Committee. Part II of Sir M. Hailey's memorandum includes a review of the subject. For the moment it is only necessary to bear in mind that the *ultimate* cost to federal revenues of these adjustments is likely, after a period of years, to reach about 1 crore a year.

Now, my Lord Chairman, all that looks a very formidable state of affairs, and the question arises as to whether there are any countervailing factors that ought to be taken into account. First of all there are certain countervailing factors, but they are of such an uncertain character that it is very difficult to know what reliance to place upon them. There is, however, one fact that is beyond doubt and contradiction, and that is a factor that must not be forgoten when we approach these broad issues, namely, that Indian credit is steadily improving. I do not linger on

that point at this stage, but it is a material factor in our general considerations. Next there is the fact that, anyhow judged by past experience, India responds more quickly than almost any country in the world to an upward movement in the economic field. India being dependent to a great extent upon primary commodity prices, responds equally quickly when commodity prices fall and when commodity prices rise. Thirdly, there is, I believe, still opportunity for economies to be carried out in certain fields of administration in India, particularly provincial administration, and lastly there is the fact—or perhaps I should say there is the hope (I do not put it higher than that at this moment)—that as a result of the proceedings of the capitation Tribunal, the Tribunal that was to analyse the expenditure of Great Britain and India for the defence of India, which has finished its deliberations, and out of those deliberations might eventuate (I do not put it higher than that) a contribution of some kind towards the defence expenditure of India: but, my Lord Chairman, I quite admit that anyhow two or three of those factors are uncertain factors, and that we must come to a much closer analysis of the figures. We must base our reasons upon much more definite data if we are to say that the picture painted by Sir Malcolm Hailey in his summary is not as black as appears at first sight.

Before proceeding to further analysis of the position as I have so far described it, I will digress in order to give some figures regarding the public debt of India, which are, of course, important in relation to the credit of India. The total obligations of India are 1212 crores. Of this amount 705 crores are held in India and 507 crores in England. The division into remunerative and dead-weight debt is as follows. Remunerative debt—that is debt represented by interest-bearing assets, railways for instance in particular—is 969 crores. Not so represented 206 crores, leaving a small sum of 37 crores that is held in cash and bullion.

Sinking fund provision, of which the aggregate amount is calculated with reference to the whole debt, is nearly seven crores a year.

Now, my Lord Chairman, I return to the analysis of the position already set out. I think two significant facts emerge from the figures. The first fact is that the greater part of this deficit, call it, if you will, from six to 10 crores, is due not to the setting up of the Federal Government in the centre but to the setting up of autonomous provinces upon a self-supporting basis. I would lay especial emphasis upon this fact, that by far the greater part of the deficit is due not to the setting up of the Federal centre but to the setting up of the autonomous provinces upon a self-supporting basis. Next, a second fact that emerges is that a very small part of this deficit, take it if you will at the highest figure, say, of 10 crores, is due to actual fresh expenditure. If you analyse the figures you will find that, apart from a comparatively small sum, namely, about three-quarters of a crore, for setting up the new machinery in the provinces, and a figure of about the same amount, namely, about three-quarters of a crore for setting up the Federal institutions in the centre, the rest of this amount is not fresh expenditure at all, and it is due in the main to two changes in the allocation of the revenues of India, namely, first of all, the change, supposing Burma is separated from India, of leaving Burma two or three crores that it now contributes to the Indian Central Government. Secondly, it is due to a figure of about the same amount, some two crores, that is necessary whether changes take place in the constitutional field or whether they do not, to put a stop to the permanent deficit in Bengal and the permanent deficit in Assam.

Now, my Lord Chairman, what are the conclusions that I draw from those facts? The first conclusion that I draw is that the greater part of the six to 10 crores is needed anyhow, whether we make constitutional changes or whether we do not, that the greater part of it is needed for putting the provinces on a self-supporting basis, and that in my view, whether constitutional changes are made or whether they are not, it is urgently necessary in the interests of the Central Government and in the interests of a great province like Bengal to bring to an end a system of finance that leaves Bengal in a state of permanent deficit and allows its finances to get deeper into a hopeless slough.

My Lord Chairman, the second conclusion that I draw from this analysis is that if the state of the world does not get better, if we still go on with commodity prices either at their present level or actually falling, not only does it make any change almost impossible but it makes the existing system of Indian finances almost equally impossible. We shall then have to re-adjust our whole system of finance in India to meet the state of affairs with which we shall be faced. Let me emphasise this point, that if the state of the world does not improve the problem of the present Government in India is almost as great as the problem of any Federal Government and any autonomous Provincial Governments, and we have got then, in that event, to readjust our ideas to these new conditions. But I would venture to urge that in the meanwhile, my Lord Chairman, the wise course is, first of all, to go on making our plans, to make them as reasonable and as secure as we can, but frankly to admit the fact that if the state of the world does not improve we may have materially to readjust them; and, secondly, I think it is most important to emphasise the fact that, so far as we can see, for quite a number of years to come, there is no orange to divide up in India between the Centre and the Provinces. The fact that does emerge, anyhow, in my mind as definitely as any other is that for some years to come the Central Government, whether it be the present Government or whether it be a Federal Government, will need substantially its present resources if the credit of India is to be maintained and if its financial obligations are to be met. I would, therefore, venture to impress upon my friends amongst the Indian Delegates who particularly represent Provincial opinion at this Conference, that, with the best will in the world, if we are to have a stable Central Government, if Indian credit is to be maintained, and if Indian commitments are to be met, there is no sum at the moment to be divided up amongst the Provinces other than, say, a part of the jute tax or some such payment of that kind for dealing with the very exceptional position of Bengal. In saying this I do not in the least overlook the fact that in any permanent plan for the division of resources it is necessary to bear in mind that the requirements of the Provinces are almost unlimited while their present sources of revenue, and in particular land revenue, are inexpansive, whereas the present central sources of revenue are more elastic heads and the field of expenditure is, in the main, well defined. I would venture to suggest, with deference, my Lord Chairman, that if that conclusion is correct, it points once again to the Provincial Governments using every possible economy in their administration, and (I know very well what great efforts many of them have made) to look at the problem again in view of what I have said and to see whether they cannot still further economise in certain branches of their administration. I think it also points —if I may make this suggestion both to the Committee and to the Delegates—to this, that in all our discussions on which we are going to embark in the whole field of the Constitutional proposals, we should keep constantly

in mind the fact that there is very little money to go round and that we must keep the lowest possible limit on any expenditure that may be needed by Constitutional changes. I think in the course of our discussions we must look with even more meticulous and closer attention to every aspect of the Constitutional proposals from that angle. Now, my Lord Chairman, I have spoken, in the main, in general terms, but I hope I have said enough to show, first of all, that there is very little money to go round; secondly, that if the economic state of the world does not improve we must readjust our views generally to the whole problem of Indian Revenue and Indian expenditure; thirdly, that the main cause of the deficit shown in Sir Malcolm Hailey's Summary is a deficit due, not so much to any Constitutional changes, as to the system of Indian finance generally.

Let me end, my Lord Chairman, by saying, even after painting the picture as blackly as it has been painted, that we can congratulate ourselves upon India, as a whole, being financially—uncertain and black as the picture is that I have just painted—sounder than most of the countries in the world. After all, my Lord Chairman, we are balancing our Budget.

The budgetary position has responded to the great efforts made to deal with the serious deterioration which resulted from the world-wide economic depression. 1932-33, according to the Revised Estimates, closed with a surplus of Rs.2.17 crores; and the Budget for the current year, in spite of a partial restoration of cuts in pay, provides for a small surplus.

The continued improvement which has taken place in the credit of India is evidenced by the fact that, for example, the 4½ per cent. sterling Stock 1950-55, which in September, 1931, was quoted as low as 61, had risen by May, 1932, to 91, and now stands at about 106. Another manifestation of the stronger financial position has been the great progress made, during the last year or so, with the repayment and conversion of short term debt, both rupee and sterling.

After all the efforts that we have made in the Provincial Administrations in the last year we are going, as I believe to show that, at the end of the year, there will be very few Provinces—perhaps no Provinces other than Bengal and Assam—in a state of deficit, and that upon those facts we can well congratulate ourselves. The wise course, I suggest to the Committee to-day, in view of these facts, is that we should keep them constantly in mind, but that they should not debar us from proceeding with our Constitutional plans, and that we should keep in mind the fact that there is no government in the world, either the Indian Government or the British Government, or any other Government, that can accurately say, in the uncertainties of the world, what the state of its finances is going to be in 12 months' time. We must go on hoping that there will be a turn for the better in the world, and we must rely upon the fact that we have always assumed, in our previous discussions in the Round Table Conferences, that we can never make definite estimates until the last moment, and at the last moment there must be an expert Inquiry into the financial position with a view to readjusting that position, if readjustment is necessary, to the conditions of the time.

My Lord Chairman, I hope I have stated, in general terms, the main factors that have impressed themselves upon my mind.

(19356 (1)—50) Wt. 1141—379 1000 7/33 P. St. G. 335

UNREVISED **2**

JOINT COMMITTEE
ON INDIAN CONSTITUTIONAL REFORM

RECORDS

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H.L. 79(III)
H.C. 112(III)

Statement made to the Joint Committee and Delegates

by The Right Hon. Sir SAMUEL HOARE, Bt., G.B.E., C.M.G., M.P., Secretary of State for India, on Tuesday the 18th July.

My Lord Chairman,

I would like to make an observation about what has been happening outside the Committee during the last few days. I have noticed that both in India and here, certain answers that I have given have been taken out of their context, and have been used by our critics to imply that my general attitude is very different from what it really is. I was very conscious of the danger of a situation of this kind when I offered to give evidence to the Committee. Obviously, when I am freely and unreservedly answering questions upon every conceivable detail connected with the Constitution, there may be many isolated answers that I give that might be put into more cautious language. I have purposely adopted the line of telling both Members of the Committee and Indian Delegates exactly what is in my mind, and I have taken the risk of my answers being traduced in this manner. What I wish to say to-day is that I hope every reasonable person outside this Room, whether in India or whether in England, will treat my evidence as a whole and will not sink to an attempt to make Party capital out of an isolated answer, one way or the other. I feel it necessary to make that statement this morning in view of some of the very gross misrepresentations that have found their way into the Press as a result of our discussions.

The following observations were then made:—

Sir *Tej Bahadur Sapru*: My Lord Chairman, will you just allow me to say one word. I am very glad that Sir Samuel Hoare has made this statement, because during the last few days telegrams have been appearing from India in the London Press which have caused us much anxiety. I do not know in what light the evidence of Sir Samuel Hoare has been represented in India, but it is time that Sir Samuel Hoare did utter that warning, and I am glad that he has uttered that warning this morning.

Mr. *Zafrulla Khan*: My Lord Chairman, I associate myself with what has been said by Sir Tej Bahadur Sapru. There is not the slightest doubt that we must take the whole of the evidence of the Secretary of State together. He is not nearly half way through his evidence yet. There is also not the slightest doubt that sometimes a series of questions directed only to one aspect of one particular matter are likely to create, when taken by themselves, a particular impression which may not be correct. I have also no doubt that when the time comes we shall place our various points of view before the Committee, and the evidence will then be appreciated in its proper light. In the meantime, I associate myself with the hope that no capital will be sought to be made out of particular portions of the evidence in any way whatsoever, because that would create difficulties for the Committee in the discharge of their onerous duties.

Sir *Austen Chamberlain*: My Lord Chairman, may I add a word? I am sure that the Members of the Committee will desire to express their sympathy with the Secretary of State. The Secretary of State has taken a very unusual and indeed, I think, an unprecedented course in offering himself as a Witness before this Joint Select Committee, and meeting of Indian Delegates. It is a course requiring some courage, but of immense help to the Committee in its deliberations. The Secretary of State, I am sure, will have the support of the Committee, and though I have not the same right to speak for the Indian Delegates, I am sure of their support also in condemning any attempt to twist his answers for ulterior purposes or to represent him as other than he has been throughout—a responsible Minister defending a considered proposal to the best of his ability and with very great success.

L.8.0.2.—5. Wt. 1141—87. 1.5. 7.28 P. St. G.335

UNREVISED 3

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Memorandum by the Secretary of State for India describing the nature of the problem which arises directly and indirectly in connexion with the proposals in the White Paper relating to High Courts (paragraphs 168—175 of the White Paper).

THE JUDICIARY—HIGH COURTS.

(Paragraphs 168-175 White Paper.)

INTRODUCTORY.

The Machinery for the Administration of Justice.

An adequate appreciation of the authoritative position which the High Courts† occupy in the administration of justice in India implies some acquaintance with the organisation of the subordinate civil and criminal judiciary, which is the machine over which they preside. The picture presented is not that of a judiciary composed of individual judges drawn from the Bar and severally responsible for the state of business in their respective Courts. It is nearer the truth to regard the Indian judiciary as an official corps organised under the High Court with the twin objects of securing their judicial independence and maintaining their professional efficiency.

By way of explanation it should be realised that the machinery for the administration of justice in a Province is an organic whole which may conveniently (neglecting local variations) be described by the following table:—

Criminal side.	*Civil side.*
Magistrates with third class powers.	Munsifs.
Magistrates with second class powers.	Subordinate Judges, second grade.
Magistrates with first class powers.	Subordinate Judges, first grade.
District Magistrate.	District Judge.*
Sessions Judge.*	High Court.†
High Court.†	

The High Court both on the criminal and civil side enjoys some original jurisdiction, but the bulk of its work is appellate. The other Courts indicated above are all Courts of first instance, but an appeal lies from the decisions of all third and second-class magistrates to the District Magistrate, from all first-class magistrates (including the District Magistrate) to the Sessions Judge, and from the Sessions Judge to the High Court. Similarly on the civil side an appeal from a Munsif's decision and from those of the lower grade of subordinate judge lies to the District Judge and from the higher grades of subordinate judge and the District Judge to the High Court.

It will be understood that while there is one High Court for each Province, the rest of judiciary as described above is grouped by Districts, each District having a District Magistrate and a District Judge, the former with subordinate magistrates and the latter with subordinate civil judicial officers under his control.

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* The offices of District Judge and Sessions Judge are almost invariably held by one individual, who is commonly described as "District and Sessions Judge."

† For the meaning of the words "High Court" as used in this note, see paragraph 22 below.

The Subordinate Criminal Judiciary.

2. The criminal judiciary is constructed on a plan uniform for all British India by an Act of the Indian Legislature (the Code of Criminal Procedure). That Act in its Second Part deals with the Constitution and Powers of Criminal Courts, prescribing the classes of Criminal Courts which shall exist in the Provinces, and assigning powers to each class by specifying in a schedule the offences of which each class of Court may take cognizance. Further powers are assigned by particular Acts, Central and Provincial.

The Code of Criminal Procedure, however, leaves it to the Provincial Governments to provide the personnel required to man the subordinate criminal judiciary. At the stage of Sessions Judge a varying number of appointments are made direct from the Bar, though these have in most Provinces been few in number, but below that stage the personnel is provided (so far as honorary magistrates are not employed) by drawing upon the administrative cadres employed in the Provinces (the Provincial Civil Service). To varying degrees from Province to Province a distinction between officers of these cadres employed upon magisterial duties and those employed upon administrative duties has been drawn; but, generally speaking, the subordinate magistracy is employed also in administrative or revenue work as well as in strictly judicial duties.

The broad result, therefore, is that all magistrates are drawn from departmental cadres, which they enter at the outset of their official career, and through which they pass by rising in due course from grade to grade and within grades, by surmounting various "efficiency bars." Progress depends partly upon seniority and partly upon professional efficiency. The clerical establishment of Criminal Courts is provided by the Provincial Governments from their subordinate services.

The Subordinate Civil Judiciary.

3. The Subordinate Civil Judiciary is organised by provincial legislation. The plan is therefore not necessarily uniform from Province to Province. In fact, there is a good deal of uniformity in general arrangement, but there are differences of detail. Certain classes of court are required to be set up. The jurisdiction of each is determined according to the pecuniary value of suits, and that jurisdiction is supplemented by specific Acts which may assign jurisdiction according to other criteria. The provision of personnel to preside over these courts is generally left to the Provincial Government, but in some Provinces for certain courts has been entrusted entirely or in effect to the High Court. But whatever the method, the feature common to all systems is that the personnel compose official cadres into which normally a man enters at the outset of his career and through which he passes over efficiency bars and grade distinctions. The cases in which officers of these services are employed on work other than strictly judicial work are comparatively few.

Control of the Subordinate Judiciary.

4. These arrangements are part of a system which recognises that subordinate courts, civil and criminal, in India, while preserving their judicial independence, require a degree of administrative superintendence and control unknown in England. The judge or magistrate in charge of each court makes periodical returns of the state of business in his court, which are reviewed by the District and Sessions Judge and by the District Magistrate at shorter, and by the High Court at longer, intervals. All courts are

regularly inspected, and at least in some Provinces one or more judges of the High Court go on tours of inspection round the courts in the Province. In the course of all this, presiding officers are criticised, commended or reprimanded. There are efficiency bars to be passed and grade promotions awarded. Transfers must be arranged, leave granted and provided for, and there are also matters of discipline.

It will appear later how much of this administrative control, which is very considerable in amount, and very important in nature, is exercised by the High Court. Much of it has been devolved upon the Court by Statute; a great deal is exercised by less formal arrangement with the Provincial Government.

THE PROVINCIAL HIGH COURTS.

5. It is convenient to examine the problem of the High Court from three separate standpoints:—

(i) the establishment of the Court, including its composition;
(ii) the "jurisdiction, powers and authority of the Court"; and
(iii) its maintenance—i.e., the financial provision required for the salaries of the Judges, the pay of the Court's subordinate establishment and the provision and upkeep of its buildings.

The last of these heads will be discussed separately later. The first two broadly cover the field of the Letters Patent under which the High Courts are established, and are to be found stated as well in section 106 of the present Government of India Act.

Composition and Organisation.

6. The constitution of High Courts is to a certain extent determined by the specific provisions of the present Act, but is also governed by the provisions of Letters Patent. Provisions of the former nature, namely those which lay down the number of Judges and their qualifications, are, broadly, not alterable by any Legislature in India. But the Letters Patent as they stand are by their own terms subject to modification by the Indian Legislature (in the case of Burma by the Provincial Legislature). So far, therefore, as the constitution of a High Court depends upon its Letters Patent, the constitution is variable by Central (in the case of Burma by Provincial) legislation.

7. The effect of entry 28 in List II of Appendix VI of the White Paper is to exclude matters affecting the constitution and organisation of a High Court from the competence of Provincial Legislatures, and there is no entry in List I which puts these matters within the competence of the Federal Legislature, for, as will subsequently be shown, the terms used in item 63 of List I do not cover matters affecting the constitution and organisation of High Courts. Consequently, the proposals of the White Paper, paragraphs 168-175, contain the only provision for the establishment, constitution and organisation of High Courts. These provisions entrust matters of this nature solely to the Act itself or to Letters Patent by the Crown, and consequently give no power to any Indian Legislature to alter the composition or organisation of any High Court as they will be laid down in the new Constitution Act or Letters Patent.

8. The general assumption underlying the proposals in the paragraphs of the White Paper relating to the High Courts is that the existing provisions of the Government of India Act relating to the chartered High Courts (sections 101-113) will for the most part be repeated in substance in the

new Constitution Act without change, except to the extent that changes are indicated in paragraphs 168-175 of the White Paper. Briefly, these changes as proposed, nearly all of which except the last relate to the constitution of the Courts, are as follows:—

(i) That the tenure of Judges shall be during good behaviour instead of during pleasure (paragraph 169 and section 102 (1)).

(ii) That there shall be a fixed age limit of 62 for High Court Judges, instead of the present practice, whereby an undertaking to retire at the age of 60 is obtained from every Judge on appointment, no age limit being fixed by the Act (paragraph 169).

(iii) That every Puisne Judge, or every person qualified to be appointed a Puisne Judge, shall be eligible for the appointment of Chief Justice. The present Act (section 101 (4)) has been legally interpreted as rendering only barristers eligible for the office of Chief Justice (paragraph 170).

(iv) That the existing statutory requirement that at least one-third of the Judges of every High Court must be members of the Indian Civil Service and at least one-third must be barristers is to be abrogated (paragraph 170 and section 101 (4)).

(v) That the salaries, pensions, allowances, &c., of Judges shall in future be fixed by Order in Council instead of as at present by the Secretary of State in Council (paragraph 171 and section 104).

(vi) That Additional Judges* shall henceforth be appointed by the Governor-General in his discretion instead of by the Governor-General in Council (paragraph 172 and section 101 (2) (i)) and that the same authority shall henceforth have power to fill acting appointments, whether as Chief Justice or Judges, instead of the Local Government (paragraph 172 and section 105).

(vii) That the Governor-General, i.e., the Federal Government, shall take the place of the Governor-General in Council as the authority empowered to transfer areas from the jurisdiction of one High Court to another and to define their jurisdiction over British subjects situated in parts of India outside British India (paragraph 174 and section 109).

Jurisdiction, Powers and Authority.

9. The phrase "jurisdiction, powers and authority" has a long history reaching back to the Regulating Act of 1773, and it is employed in sub-section (1) (*a*) of section 106 of the present Government of India Act to indicate, along with the power to establish a High Court, the whole scope of Letters Patent. The Letters Patent themselves indicate the distinction which is to be drawn at least between on the one hand "jurisdiction" and on the other "powers and authority": the broad distinction seems to be that "jurisdiction" indicates juridical competence and "powers and authority" administrative. The Letters Patent indicate, for instance, as regards civil jurisdiction, that that is a competence to try and determine, whether originally or on appeal, matters arising in issue between parties. The criminal jurisdiction is a competence to try all persons brought before the Court in due course of law and, of course, to hear appeals from the orders of Courts exercising a subordinate criminal jurisdiction. The Letters Patent, however, do not set out to describe or specify the content of the jurisdiction. The law to be administered by the High Court is left to the

* Additional Judges are Judges appointed for a period as distinct from permanent Judges of the Court.

competent legislative authority in India, and the scope of the appellate power of the High Court is also left to the operation of existing legislative provision in India or to subsequent provision which in this respect, may hereafter be made by competent legislative authority in India.

Jurisdiction.

10. The present position is as follows:—

In spite of the existing concurrent jurisdiction of the Legislatures in India, it has been held that the provision in the Letters Patent enabling only the Legislature of the Governor-General in Council to amend Letters Patent excludes the competence of a Provincial Legislature in any matter affecting a High Court's jurisdiction. This, however, is not the position in Burma, where the Letters Patent differ from all others in granting power to the Provincial Legislature to amend the Letters Patent of the Burma Court.

Section 106 of the Government of India Act withdraws from the High Courts original jurisdiction in any matter concerning revenue, or the collection thereof, but even this provision of the Statute is, owing to the operation of the Fifth Schedule of the Act, amendable by the Central Legislature.

Powers and Authority.

11. The distinction made explicitly or implicitly in Letters Patent between "jurisdiction" on the one hand and "powers and authority" on the other is clear from the nature of the "powers" there given. They include, for instance, powers to appoint officers of the Court itself; powers to admit advocates, vakils and attorneys, and to make rules for their qualification, removal and suspension; powers to regulate their own proceedings; and powers to delegate duties of a judicial, quasi-judicial or non-judicial nature to any Registrar, Prothonotary or Master, or other official of the Court.

But the powers and authority of the High Courts of this nature are much wider than those described in the Letters Patent, and may conveniently be displayed under the following four heads, namely:—

(i) Powers conferred by the Government of India Act.
(ii) Powers conferred by Letters Patent.
(iii) Powers conferred by enactments of the Central Legislature.
(iv) Powers conferred by enactments of Provincial Legislatures.

(i) The *powers conferred by the Government of India Act* include those described in its 107th section, "Powers of the High Court with respect to Subordinate Courts." This power has usually been understood to be of a purely administrative nature, but certain High Courts have recently held that it confers upon them a wide juridical competence, and have further pointed out that it is not a power amendable by the Indian Legislature, as it is not included in Schedule V of the Government of India Act. It is the intention on the present occasion to enact the substance of this section, but in such a form as to leave no doubt that it does not confer juridical jurisdiction, but administrative powers.

In Proposal 175, it has been suggested that this authority should be subject to regulation by the Federal Legislature. But the suggestion made in the preceding sentence that the nature and scope of this authority should be laid down once for all in the Constitution Act itself would render a provision of the nature of paragraph 175 unnecessary.

(ii) *Powers and authority conferred by Letters Patent.*—The details of these powers have been indicated above. The White Paper itself contains no provision for amendment of Letters Patent by any authority in India and to this extent withdraws the powers at present enjoyed, in virtue of Schedule V to the Act and the Letters Patent themselves, by the Central Legislature (and in Burma, the Provincial Legislature). Nevertheless, the individual powers and authority enjoyed in virtue of their Letters Patent by the High Courts would be subject to an extent not yet explored to the jurisdiction of Legislatures in India according as they are covered by one entry or another in Lists I, II and III of Appendix VI. For instance, the powers of the High Court under Letters Patent in regard to the admission of advocates, vakils and attorneys would be subject to any competence which might be placed in India to legislate for the constitution and control of the Bar or Bars. Another instance is the High Court's power to delegate functions to Registrars and other officers of its own.

(iii) *Powers conferred by Central legislation.*—Instances of powers of this nature are to be found in the Criminal Procedure Code and particularly, in a very wide form, in the second part of the Civil Procedure Code, and it is presumed for the moment that these powers, as at present, will be subject to the competence of the Federal Legislature or, to the extent to which they fall in List III of Appendix VI, to the concurrent competence of the Federal and Provincial Legislatures.

(iv) *Powers conferred by Provincial Legislatures.*—The most prominent of these powers are those conferred in relation to the subordinate civil judiciary by Provincial Civil Courts Acts in certain Provinces: thus in Madras the civil subordinate judiciary of the Munsif class are appointed and controlled entirely by the High Court; in the Punjab the High Court is given the power to nominate persons for recruitment as Subordinate Judge, which nomination must be accepted by the Local Government. In other Provinces the position with regard to Munsifs is the same as that just indicated with reference to Subordinate Judges in the Punjab. But although, except to the extent just stated, the actual appointment of the civil judiciary rests with the Provincial Government, in nearly every case the opinion of the High Court as to appointment, transfer, promotion, etc., is taken and acted upon by the Local Government.

12. The importance of powers derived from provincial legislation and from the Provincial Governments will be apparent in their relation to the provincial judiciary as an administrative machine to which attention has been drawn in the opening paragraphs of this note. It may be added that by convention also the High Courts are almost invariably consulted in regard to the conferment of certain magisterial powers, such as those under section 30 of the Criminal Procedure Code. In effect, the whole of the civil judiciary and, to the extent indicated in the introductory portion of this note, the criminal judiciary, form an administrative department under the High Courts; they carry out a regular inspection of the Superior District Courts and, in some cases, of the Magistrates' Courts; they prepare the budget and control the contingent expenditure of the Civil Courts; they make recommendations to the Local Government regarding the promotion of the civil judiciary on an examination of their work; they issue a large body of rules prescribing the action of the civil judiciary in a variety of matters such as questions relating to judicial deposits and payment of witnesses. Indeed, the judiciary in India is regarded as constituting a piece of machinery the efficiency of which is maintained by day-to-day control and supervision by the High Court.

13. The maintenance of this control unimpaired is regarded by many as a matter of essential importance. If that view is endorsed by the Select Committee, it will be necessary, in drawing up the Constitution Act and the schedules thereunder, to ensure that the legislative powers to be entrusted in this respect to the Provincial Legislatures are so defined as to safeguard this position.

Maintenance.

14. The most important aspects of the problem of maintenance of the High Courts are financial. The salaries and other allowances of the judges themselves (proposal 171) will be regulated by Order in Council and will be met by non-voted provision (proposal 98). They, therefore, do not fall within the scope of entry 28 in List II. The more important matters which fall within the scope of that entry are the provision of buildings required for the Court, of the necessary clerical establishment and of the numerous miscellaneous matters classed as "contingencies." The effect of the White Paper proposals would be to leave all these matters to be regulated by the Provincial Legislature and Government, but to enable the Governor (proposal 98, sub-section (3)) to certify, after consultation with his Ministers, the sums required for these expenses of the Courts and thereby to remove them from the vote, but not from the criticism, of the Provincial Legislature.

FEDERALISATION OR PROVINCIALISATION.

15. If the question be asked whether the White Paper federalises or provincialises the High Courts, the answer must be given separately under each of the preceding heads under which the incidents of the problem have been described. So far as composition and organisation of High Courts is concerned, the White Paper neither federalises nor provincialises. It removes questions of this nature from the competence of either the Federal or the Provincial Legislature and entrusts them to Parliament by amendment of the Constitution Act, or to the Crown by issue of Letters Patent or Orders in Council.

16. As regards jurisdiction in the sense of juridical competence, the proposal is that the power to regulate juridical jurisdiction should follow the power to regulate the substantive law to be interpreted. This proposal has been accepted by the Governments in India as natural and logical and, indeed, seems to find support in section 5 of the Colonial Laws Validity Act and in general principles* accepted by the Privy Council.

17. As regards powers and authority, it is proposed to make the general administrative authority of the kind now conferred by section 107 of the Government of India Act neither Federal nor Provincial, but to lay down its nature and scope and to confer it upon the Courts once and for all in the Constitution Act itself. Particular powers and authority will be conferred upon the Court and regulattd by the legislative authority which has competence in the matter to which they refer. For instance, all powers and authority which the High Courts may exercise under Provincial Civil Courts Acts will be Provincial; those which they exercise under the Code of Civil Procedure or the Code of Criminal Procedure, both of which fall in List III, will be Provincial or Federal according as the legislation undertaken is that of the Provincial or the Federal Legislature. The powers at present enjoyed by courtesy are, of course, not regulated by the proposals of the White Paper.

* *Valin* v *Langlois*, 5 App. Cas. 115; 49 L.J.P.C. 37.

18. As regards maintenance, the proposal is that this should be entirely a Provincial matter, but it is proposed, as already stated, to give the Governor a personal authority to certify, after consultation with his Ministers, the amounts which he thinks are required for the expenses of these Courts.

19. These proposals as regards powers and maintenance take account not only of the necessities of administration, but also of the conditions which the new Constitution is likely to set up. In the light of past experience it is suggested that the Federal Government will lack the requisite local knowledge to enable them to discharge the functions now assigned to the Provincial Governments in the case of all High Courts other than the Calcutta High Court. (The relations which have hitherto existed between the Government of India and the Calcutta High Court are due partly to historical reasons and partly to the fact that that Court serves two Provinces.) To restrict the competence to confer power and authority upon High Courts to the Federal Government might well involve a risk of conflict of administrative authority over subordinate Courts between (*a*) the Provincial Government, which would continue to possess such authority in virtue of its responsibility for the Provincial subject, and of the fact that in the majority of Provinces the Provincial Courts Act vests power of appointment of subordinate judicial officers in the Local Government, and (*b*) the High Court, which would also continue to possess such authority, but which, with the High Court centralised and with the statutory Letters Patent powers transferred to the Government of India, would cease to have any administrative relations with the Local Government. The present system of provincialisation has worked well in the past and has proved itself appropriate to the varying constitutional conditions. Finally, it might reasonably be held that since the administration of justice is essentially a Provincial subject, the Courts which administer it should be in relation with the Provincial executive authority.

20. It is further for consideration whether, if the High Courts were to be federalised, the Provincial Governments of the future would be content to allow them to remain in possession of the power and authority over the subordinate judiciary of the Province at present conferred by Provincial legislation or as the result of arrangements with Provincial executives. This is a consideration which cannot be ignored, for if the administration of the subordinate judiciary were removed from the High Court it would necessarily fall to the charge of a Minister directly responsible to the Legislature.

21. On the point of maintenance it is sometimes assumed that the federalisation of civil and criminal justice would not involve additional expenditure on the Centre, since the receipts on this head balance expenditure. Enquiries made from time to time, however, show that this is not correct when all expenditure of every kind on this head is taken into account, and in any case this measure would involve complicated financial adjustments ranging not only over Court fees, but stamps and Public Works expenditure. The administrative functions of the High Court involve control over a considerable range of expenditure in regard to subordinate establishments, Court buildings, and the like, and it has been represented with much force that these arrangements can best be effected in relation to the Local Government, instead of bringing them within the purview of the Central Government, which would not have the necessary knowledge, or could, in turn, only acquire that knowledge through reference to the Local Government itself.

"HIGH COURTS," OTHER THAN CHARTERED HIGH COURTS.

22. The foregoing paragraphs of this note have reference primarily to the High Courts referred to in the Government of India Act (section 101 (1)), that is, to High Courts of Judicature established by Letters Patent, commonly known as the Chartered High Courts. But such Courts do not exist in every Province; in a few Provinces the highest Court of criminal or civil appeal, though not a Chartered High Court, exercises the appellate and revisional powers of such a Court. These include the Courts of the various Judicial Commissioners and the Chief Courts. The observations in this note are to some extent applicable also to "High Courts" of this description, but not those which refer to constitution and organisation, to the general administrative power derived from section 107 of the Government of India Act, nor, of course, those relating to the powers conferred by Letters Patent. The position of non-chartered "High Courts" in relation to these matters will require consideration when the exact scope of the provision to take the place of paragraph 175 of the White Paper, and the previse extent of item 28 in List II of Appendix VI, come under examination. For the present the nature of the problems which arise in connection with the Judiciary are most conveniently presented from the angle of the Chartered High Courts.

Proposals for the Future Administration of Indian Railways.

MEMORANDUM BY THE SECRETARY OF STATE FOR INDIA.

In paragraph 74 of the Introduction to the White Paper it was stated that His Majesty's Government considered it essential that while the Federal Government will necessarily exercise a general control over railway policy, the actual control of the administration of the State Railways in India (including those worked by Companies) should be placed by the Constitution Act in the hands of a Statutory Body so composed and with such powers as will ensure that it is in a position to perform its duties upon business principles, and without being subject to political interference.

The paper entitled "Sketch Proposals for the Future Administration of Indian Railways," which I now circulate, is the outcome of the deliberations of a Committee which I recently appointed to consider a scheme which I had prepared in consultation with the Government of India to give effect to these principles. The Committee was very representative, containing as it did seven members of the Indian Legislature who came to England specially for this purpose; five of the delegates to the Joint Select Committee, of whom two were representatives of the Indian States; four eminent railway experts, two with special knowledge of Indian railways; while the remaining six members were possessed of wide administrative, financial or commercial experience.

2. I venture to think that the proposals set out in this paper are, broadly speaking, conceived on sound lines, and it is gratifying that so large a measure of agreement has been reached. In regard, however, to the vital question of the method of appointing the Railway Authority (paragraph 2 of the Proposals) a distinct cleavage of opinion emerged.

One section of the Committee recommended that all the members of the Authority should be appointed by the Federal Government; the rest of the Committee, while agreeing that four out of the seven members should be appointed by the Federal Government, considered it necessary that the other three should be appointed by the Governor-General in his discretion. I do not favour the former view as I consider that such an arrangement might conflict with the fundamental principle that the Authority should be entirely free from political influence, and I would be unwilling to go further than to allow four out of the seven members of the Railway Authority to be appointed by the Federal Government. As for the proposal that the Authority should be established on a communal basis laid down by Statute, while I sympathise with the anxieties which have prompted this proposal I regret that I cannot support it. If such a precedent were set in this case it would be difficult to refuse to follow it in other cases; and apart from the probability that no Federal Government could afford to disregard the claims of the minority communities if qualified persons be available, the reservation of three appointments in the hands of the Governor-General himself would serve to ensure that the Authority was representative, subject always to the governing consideration that no person should be appointed who did not possess the qualifications laid down in paragraph 2 of the Proposals.

3. I invite special attention to the foot-notes to paragraphs 11 and 12 regarding the position of railways in the Indian States. These notes raise an important constitutional issue which the representatives of the Indian States will no doubt explain to the Joint Select Committee.

4. The Sketch Proposals refer specifically in paragraph 8 to the special responsibilities of the Governor-General in so far as they may extend to the recruitment and service conditions of railway personnel. It will be understood, however, that this does not exhaust the scope of his responsibilities in the matter of railway administration, particularly with regard to defence requirements. The governing principle laid down in paragraph 1 of the Proposals is that railway policy is to be controlled by the Federal Government and the Legislature; and where defence requirements may be concerned the authority of the Federal Government will reside in the Governor-General by virtue of his special responsibility in respect of any matter affecting the administration of the Reserved Department of Defence. In this regard, therefore, he will be in a position to give directions to the Railway Authority as to the exercise of their functions.

5. There remains to consider the important question whether a Statutory Railway Authority should be set up by British or by Indian legislation. As I see the position there appear to be four courses open:—

(1) An Act might be passed in the present Indian Legislature and the necessary adaptation to the new Constitution made in the Constitution Act itself.

(2) The Constitution Act itself might contain provisions, complete in all details.

(3) The Constitution Act might lay down the general principles on which legislation should be based, it being left to the new Indian Legislature to legislate in detail in conformity with those principles.

(4) The matter might be left entirely to the new Indian Legislature with a reservation that the approval of the Governor-General in his discretion would be required to the introduction of the original Bill, or of any amending Bill.

In any event it will be necessary to ensure that a Statutory Railway Authority shall be set up on right lines.

In any case it would be necessary to preserve in the Constitution Act the existing rights which the Indian Railway Companies possess under contracts entered into with the Secretary of State in Council.

Sketch Proposals for the Future Administration of Indian Railways.

1. Subject to the control of policy by the Federal Government and the Legislature, a Railway Authority will be established and will be entrusted with the administration of railways in India (as described in paragraph 4) and will exercise its powers through an executive constituted as described in paragraph 3.

2. The Railway Authority will consist of seven members. The Committee is divided on the question whether (a) three will be appointed by the Governor-General in his discretion and four by the Governor-General on the advice of the Federal Government or (b) all will be appointed by the Governor-General on the advice of the Federal Government. Those members of the Committee who are members of the Central Legislature, with the exception of Mr. Anklesaria, support the latter alternative. All the Hindu and Muslim members of the Central Legislature on the Committee agree that out of the seven seats on the Railway Authority two should be reserved for the Muslim community and one for the European community. Sir Phiroze Sethna, Mr. Anklesaria, Sir Manubhai Mehta and the European members of the Committee, while they would welcome an authority representative of all interests and all communities so far as is compatible with efficiency, do not consider that any special provision should be made in the statute for the establishment of the Railway Authority on a communal basis. The seven members so appointed must be possessed of special knowledge* of commerce, industry, agriculture or finance, or have had extensive administrative experience. The President† of the Authority, who shall have the right of access to the Governor-General, will be appointed from the members by the Governor-General in his discretion.

The Federal Minister responsible for Transport and Communications may at any time convene a special meeting of the Railway Authority for the purpose of discussing matters of policy or questions of public interest. At such meetings the Federal Minister will preside. The Federal Minister may by order require or authorise the Railway Authority to give effect to decisions of the Federal Government and the Legislature on matters of policy, and it shall be obligatory on the Railway Authority to give effect to such decisions.

No Minister or member of the Federal Legislature or any other Legislature in India will be eligible to hold office as a member of the Authority till one‡ year has elapsed since he surrendered his office or seat, nor will

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* Mr. Joshi would add "knowledge of public affairs."

Mr. Joshi considers that two seats on the Railway Authority should be specially reserved for representatives of Labour and the travelling public.

Mr. Joshi and Dr. Ahmad consider that if the Authority is to consist of a whole-time Chairman and part-time members, the number should be increased.

Mr. Joshi and Mr. Anklesaria consider that special representation should be given to agriculturalists on the Railway Authority.

† Mr. Joshi and Mr. Ranga Iyer consider that the appointment of President should be made on the advice of the Federal Government.

‡ Mr. Joshi and Mr. Yamin Khan hold the view that in regard to the membership of a Legislature the year's disqualification should not apply, but that any member of a Legislature appointed to the Railway Authority will *ipso facto* vacate his seat.

any person be appointed as a member of the Authority who has been a servant of the Crown in India, a railway official in India, or has personally held railway contracts, or has been concerned in the management of companies holding such contracts, within one year of his relinquishment of office or of the termination of the contract as the case may be. The Federal Minister responsible for Transport and Communications may, if he sees fit, attend the ordinary meetings of the Authority or be represented thereat, but in neither case will there be the right to vote. The members of the Authority will hold office for five years, but will be eligible for reappointment for a further term of the same length or for a shorter term. (In the case of the first appointments, three will be for three years only, but these members will be eligible for re-appointment for a further term of three or five years.)

Any member of the Authority may be removed from office by the Governor-General in his discretion if, in his opinion, after consultation with the Federal Government, there is sufficient cause for such action.

Members shall be appointed to the Railway Authority who are prepared to give their services to such an extent as may be required for the proper performance of their duties as laid down in the Statute.* Their emoluments shall be such as to secure suitable men who will be prepared to devote sufficient time for the proper discharge of their duties and responsibilities and will be fixed by the Governor-General in his discretion after consultation† with the Federal Government, the emoluments of the members of the first Railway Authority being fixed in the Statute.

3. At the head of the railway executive there will be a Chief Commissioner, who must possess expert knowledge of railway working and will be appointed by the Railway Authority subject to the confirmation of the Governor-General.‡ A Financial Commissioner will be appointed by the Governor-General on the advice of the Federal Government. He must possess extensive financial experience and have served for not less than 10 years under the Crown or have shown outstanding capacity in the conduct of the financial affairs of commercial or railway undertakings. The Railway Authority, on the recommendation of the Chief Commissioner, may appoint additional Commissioners, who must be chosen for their knowledge of railway working. Except in matters relating to Finance the Chief Commissioner shall have power to overrule his colleagues. The Chief Commissioner will carry out the duties from time to time delegated to him by the Railway Authority and may delegate such powers to his subordinate officers as may be approved by the Railway Authority.

4. The Railway Authority will be responsible for the proper maintenance and efficient operation of the railways vested in the Crown for the purposes of administration (including those worked by Companies), all of which will remain vested in the Crown for the purposes of the Federal Government. The Railway Authority will also exercise the control over other railways in British India at present exercised by or on behalf of Government.

* Mr. Ranga Iyer, Mr. Padshah, Mr. Joshi, Dr. Ahmad and Mr. Yamin Khan are of opinion that the members should be " whole time " while the other members of the Committee consider that the Committee's recommendation does not exclude the appointment of whole-time members, should experience prove this to be necessary.

† Mr. Joshi and Mr. Ranga Iyer hold that " in his discretion after consultation with " should read " on the advice of."

‡ Mr. Joshi would add " and the Federal Government."

Provision will be made for safeguarding the existing rights of Companies working under contracts with the Secretary of State in Council, and it will be the duty of the Railway Authority to refer to the Secretary of State any matters in dispute with the Companies which, under the terms of those contracts, are subject to the decision of the Secretary of State in Council or which may be referred to arbitration. It will be obligatory on the Railway Authority and the Federal Government to give effect to the decision of the Secretary of State or the award of an arbitrator.

5. In exercising the control vested in it, the Railway Authority will be guided by business principles, due regard being paid to the interests of agriculture, industry and the general public and to Defence requirements. After meeting from receipts the necessary working expenses (including provision for maintenance, renewals, depreciation, bonus and interest on Provident Funds, interest on capital and other fixed charges, payments to Companies and Indian States under contracts or agreements) the surplus will be disposed of in such manner as may be determined from time to time by the Federal Government under a scheme of apportionment running for a period of not less than five years. In the event of a dispute as to the adequacy or otherwise of the allowance to be made in respect of renewals and depreciations the Auditor-General shall be the deciding authority. Pending any new scheme of apportionment the disposal of any surplus will be governed by the arrangements in force at the time the Authority is established.

6. The Railway depreciation, reserve and other funds should be utilised solely for railway purposes, and be treated as far as possible as the property of the Railway Authority. The investment of such funds and the realisation of such investments by the Railway Authority shall be subject to such conditions as the Federal Government may prescribe. A Committee might be convened in India to advise what those conditions should be.

7. Revenue estimates will be submitted annually to the Federal Government, which will in turn submit them to the Federal Legislature, but these estimates will not be subject to vote. If the revenue estimates disclose the need for a contribution from general revenues, a vote of the Legislature will, of course, be required. The programme of capital expenditure will be submitted to the Federal Government for approval by the Federal Legislature. The Federal Government may, however, empower the Railway Authority to incur capital expenditure subject to conditions to be prescribed.

8. The Railway Authority will be empowered, subject to the powers of the Governor-General in the exercise of his special responsibilities, and subject to the safeguarding of the rights of all officers in the service at the time of the establishment of the Railway Authority, to regulate by rules or by general or special order the classification of posts in the railway services on State-worked lines in British India, and the methods of recruitment, qualifications for appointment to the service, conditions of service, pay and allowances, Provident Fund benefits, gratuities, discipline and conduct of those services; to make such delegations as it thinks fit, in regard to appointments and promotions, to authorities subordinate to it; and to create such new appointments in the State Railway Services in British India as it may deem necessary or to make to authorities subordinate to it such delegations as it thinks fit in regard to the creation of new appointments. In its recruitment to the railway services the Railway Authority shall be required to give effect to any instructions that may be laid down to secure the representation of the various communities in

India. In regard to the framing of rules to regulate the recruitment of the Superior Railway Services the Public Service Commission* shall be consulted. Any powers in regard to matters dealt with in this paragraph at present exercised by the Government of India over Company-managed railways shall in future be exercised by the Railway Authority.

9. The Railway Authority will at all times furnish the Federal Government with such information as that Government may desire, and will publish an Annual Report and Annual Accounts. The Accounts of the State-owned lines in British India will be certified by or on behalf of the Auditor-General.

10. Should any question arise involving a conflict of interest between the various authorities in British India responsible for railways, waterways and roads as competitive means of transport, a Commission will be appointed by the Governor-General to ascertain the views of all the interests concerned and to report, with recommendations, to the Federal Government, whose decision shall be final. The Commission shall consist of one independent expert of the highest standing and experience in transport matters, with whom will be associated, at the discretion of the Governor-General, two or more assessors.

11. The Federal Government shall lay down regulations for safety on all the Indian railways and one of the Departments of the Federal Government, other than that responsible for Transport and Communications, shall be responsible for the enforcement of such regulations, subject, in the case of the Indian States, to the provisions of their respective Instruments of Accession.

In regard to the railways referred to in paragraph 4,† maxima and minima rates and fares shall be fixed by the Railway Authority subject to the control of the Federal Government. Any individual or organisation having a complaint against a railway administration under the control of the Railway Authority in respect of any of the matters which may, at present, be referred by the Railway Department to the Railway Rates Advisory Committee, may have the matter referred, under such conditions as the Federal Government may prescribe, to an Advisory Committee to be appointed by the Federal Government. Before the Federal Government passes any order on a recommendation of the Advisory Committee it shall consult the Railway Authority.

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* Mr. Joshi and Mr. Padshah consider that the Public Service Commission should be consulted in regard to the recruitment of both the Superior and Subordinate Services to the extent practicable.

Sir Muhammad Yakub considers that the Public Service Commission should be utilised in making appointments as far as practicable.

† Mr. Mudaliar and Mr. Joshi hold that the restriction under this clause to railways in British India conflicts with the provisions contained in the White Paper on the subject.

Mr. Ranga Iyer considers that the present powers exercised by the Government of India over all railways in Indian States should be exercised by the Railway Authority under the Federal Government.

It was represented on behalf of the Indian States that separate arrangements would be required for railways owned by Indian States, and accordingly no provision has been made for such railways in the scheme except to some extent under safety (paragraph 11, sub-paragraph 1) and again under arbitration (paragraph 12).

12.‡ Provision should be made for the reference, at the request of either the Railway Authority or the Administration of a railway owned by an Indian States, of disputes in certain matters such as the construction of new lines, the routing and interchange of traffic and the fixation of rates, to arbitration by a tribunal consisting of one nominee of each party and a chairman approved by both parties. The decision of the committee should be final and binding on both parties. Should the parties be unable to agree on the nomination of a chairman, he shall be nominated by the Governor-General in his discretion.

The arrangements should be such as not to prejudice the position of the Federal Court as the interpreter of the Constitution and Constitutional documents.

CAMPBELL RHODES,
Deputy Chairman.
N. N. ANKLESARIA.
E. A. S. BELL.
H. P. BURT.
HUBERT M. CARR.
F. D. HAMMOND.
A. HYDARI.
N. M. JOSHI.
L. J. KERSHAW.
R. A. MANT.
MANUBHAI N. MEHTA.
J. MILNE.
ROBT. MOWBRAY.
S. M. PADSHAH.
A. A. L. PARSONS.
A. RAMASWAMI MUDALIAR.
C. S. RANGA IYER.
PHIROZE SETHNA.
T. SMITH.
MOHAMMAD YAKUB.
MOHD. YAMIN KHAN.
ZIA UDDIN AHMAD.

A. T. WILLIAMS,
Secretary.

Sir Cecil Kisch, who was appointed to the Committee, was not able to take part in its discussions owing to his preoccupations in connection with the World Economic Conference. He has, therefore, not signed the proposals.

India Office,
21st July, 1933.

‡ Mr. Mudaliar and Mr. Joshi dissent from the proposals in this clause as antagonistic to the proposals in the White Paper.

Memorandum by the Secretary of State for India in regard to the Instrument of Instructions of the Governor-General or Governors.

1. There seems to have been some misapprehension as to our intentions with regard to the Instrument of Instructions of the Governor-General or Governors and I should like to describe briefly what I conceive to be the purpose and function of that Instrument in relation to the Constitution Act.

2. In the United Kingdom executive power and authority is, broadly speaking, vested in the Monarch. This is almost as true to-day as it was 200 years ago; but constitutional usage and practice has in process of time materially affected the *manner* of its exercise, without altering the strictly legal position. Thus the Crown could remit to-morrow the sentence of every person imprisoned at this moment in a United Kingdom gaol, and the remissions would all be legally valid; but a sentence is not in fact remitted save on the advice of a responsible Minister, who would be accountable to Parliament for the action taken on his advice.

3. In the British Dominions beyond the seas the relations between the Governor-General or Governor, as the King's representative, and his Council of Ministers in respect of the exercise of the executive powers vested in him by law are governed by his Instrument of Instructions, which in this respect takes the place of the unwritten usage and practice in the government of the United Kingdom. Such Instructions are susceptible of infinite variation, according to the stage of constitutional development with which they are intended to deal. They may, for example, direct the Crown's representative either to exercise his powers entirely at his own discretion, consult a body of Councillors but not necessarily to follow their advice, or to be guided by the advice of Ministers in certain matters though not in others, or to act in all matters on Ministers' advice.

4. The Instrument of Instructions thus does not itself confer any powers. It neither defines nor creates *legal* rights and obligations. It lays down the *manner* in which the Crown's representative is to exercise the powers vested in him by law. And it is to the Crown and to Parliament alone, and not to the Courts, that the Governor-General or Governor is accountable for any breach of his Instructions—an accountability which in the last resort could be enforced by his removal from office.

5. In the White Paper we have adopted this well-known constitutional device. Executive power and authority will be vested by the Constitution Act in the Governor-General in the case of the Federation, and in the case of the Provinces in the Governor; and the Governor-General and Governor will each be given an Instrument of Instructions directing him as to the manner in which he is to exercise those powers. The Instrument will direct him to be guided by the advice of his Ministers in all matters with regard to which they are competent under the Act to advise, unless to be so guided would in his opinion (and his opinion must necessarily be conclusive on this point) be inconsistent with the fulfilment of any of the "special responsibilities" which we propose should be imposed upon him by the Act itself. The Instrument of Instructions will deal with other matters as well, but at the moment I confine myself to the basic matter I have just mentioned.

6. In one respect the White Paper breaks new ground. We propose that Parliament should be associated both with the original Instruments and with any subsequent amendments to them. Parliament is entitled in our view

to satisfy itself, first, that the original Instruments of Instructions are consistent with the intentions of Parliament when it enacted the new Constitution; and, secondly, that any constitutional change made hereafter by means of an amendment of the Instruments can only be made with its knowledge and approval. In our opinion provisions for this purpose are essential if the responsibility of Parliament for the future constitutional development of India is to be maintained unimpaired.

7. It will be remembered that the Instructions are those of the Crown to its representatives, and I have been thinking over what was said the other day by Lord Rankeillour as to the manner in which the approval of Parliament should be secured. On further consideration I am disposed to think that the method which I understand him to propose, viz., an Address to the Crown, is the best and the most appropriate. I would accordingly suggest to the Committee that provision should be made whereby the Crown would communicate a draft of the proposed Instructions to Parliament and Parliament would subsequently present an Address praying that the Instrument may be issued either in the terms of the draft or with such omissions, additions or alterations as may be suggested; and the Crown would not take action until the Address had been received. A similar procedure would be followed in the case of any amending Instructions which might be issued hereafter.

8. I have only to add this. Paragraphs 20 and 72 of the White Paper speak of the Governor-General and Governor acting "in accordance with such directions, if any, as may be given to him" by the Secretary of State. This, of course, refers to *ad hoc* directions which may be given by the Secretary of State from time to time to meet particular contingencies. The Instrument of Instructions itself can only lay down general principles; but we make it clear in the same paragraphs that any *ad hoc* directions must not be inconsistent with those principles. A member of the Committee inquired a few days ago what would happen if the Secretary of State gave directions which were in fact inconsistent with the principles laid down in the Instrument of Instructions. I can only reply that Parliament could, and I have no doubt would, hold him strictly to account if he thus presumed to disregard the provisions of the Act.

Memorandum by Secretary of State for India being an Estimate of increased expenditure on fresh "overhead charges" necessitated by the White Paper Constitution (viz., increased cost of legislatures, elections, etc.).

CENTRE.

	Lakhs per annum.
Annual additional cost of elections (assuming a general election every three years)*	4.0
Annual additional cost of enlarged Legislature	39.0
Annual cost of Federal Court	4.6
Annual addition on account of salaries of Counsellors, Financial Adviser and staff	5.0
Contingencies (including possible reconstruction of New Delhi for summer session of Legislature)	25.0
Total	77.6

* The maximum statutory life of the Provincial and Federal Lower Chambers is five years. It is impossible to say what will be the actual average life, but three years has been arbitrarily assumed for the purpose of these estimates.

27° *Julii*, 1933.] ESTIMATE OF INCREASED EXPENDITURE ON FRESH "OVERHEAD CHARGES" NECESSITATED BY THE WHITE PAPER CONSTITUTION. [*Continued.*

PROVINCES.

Province.	Number of elected members of Legislature. Present / Proposed.	Increased cost of Legislature. Lakhs.	Ministers' salaries P.S.C.'s, etc. Lakhs.	Extra cost of each general election. Lakhs.
Madras	98 / 215	1·25	·70	10·00
Bombay	86 / 175	0·50	1·70	10·00
Bengal*	114 / 250	1·75	1·25	11·00
United Provinces*	100 / 228	3·0	5·00	8·00
Punjab	71 / 175	2·0	·89	6·25
Bihar*	76 / 152	2·65	·87	4·00
Central Provinces	55 / 112	0·62	1·02	2·60
Assam	39 / 108	0·50	·60	1·50
N.W.F.P.	34 / 50	0·25	·30	·50
Total		12·52	12·33	53·85

(Increased cost of Legislature and Ministers' salaries, together)	24·85
Estimated annual cost of separation of Orissa†	15·0
Estimated annual cost of separation of Sind†	10·26
Annual cost of provincial elections, assuming three years as average life of legislatures‡	17·95
Interest on capital cost of new buildings, etc.	2·25
Total annual recurring cost:	
Provinces	70·31
Centre	77·60
TOTAL	147·91 = £1,109,000 per annum.

* Includes cost of a second chamber. *Separate* estimate for the second chamber is available only in the case of Bihar (30 members) where it is estimated to be ·88 lakhs per annum.

† Fresh overhead charges only. This does not include the amount necessary to cover the estimated deficits in these new provinces.

‡ The maximum statutory life of the Provincial and Federal Lower Chambers is five years. It is impossible to say what will be the actual average life, but three years has been arbitrarily assumed for the purpose of these estimates.

CAPITAL CHARGES FOR NEW BUILDINGS, ETC.

PROVINCES.

Madras	1.5
Bengal	6.6
Punjab	1.5
Central Provinces	.5
Sind	7.0
Orissa	28.0
Total	45.1

Interest at 5 per cent. (2.25 lakhs) has been included in the total annual cost above.

(19356 (3)—50) Wt. 1141—379 1000 7/33 P. St. G. 335

UNREVISED **4**

JOINT COMMITTEE
ON INDIAN CONSTITUTIONAL REFORM

RECORDS

of the Joint Committee on

INDIAN CONSTITUTIONAL REFORM

Die Lunae, 7° Augusti, 1933

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Scheme of Constitutional Reform in Burma if separated from India.

MEMORANDUM BY THE SECRETARY OF STATE FOR INDIA.

In accordance with the undertaking that I gave to the Joint Select Committee on the 21st July, I circulate herewith to my colleagues of the Committee and to Delegates a Memorandum setting out in some detail, on the model of the Indian White Paper, the nature of the proposals that would form the basis of the Bill that would be required if it were decided to separate Burma from India and give her a Constitution on the lines sketched by the Prime Minister in his statement of the 12th January 1932, at the close of the Burma Conference.* Should the Committee take the view that Burma should be included in the Indian Federation the proposals of the Indian White Paper, subject to some consequential adjustments, would apply to Burma in the same way as to any other Province.

So far as the proposals in the Memorandum now circulated amplify or supplement the Prime Minister's statement, they either reproduce, *mutatis mutandis*, provisions to be found in the Indian White Paper, or they deal with matters in respect of which the separation of Burma would inevitably require modification of the White Paper proposals, or render additional provisions necessary. Provisions of this kind have been tentatively and provisionally inserted for the sake of completeness. Lastly, there are certain matters in respect of which the Indian White Paper contains definite proposals, but where it may be necessary to introduce modifications in the case of Burma which have not yet been worked out in detail. Such matters have been indicated in the Memorandum, but no alternative proposals have for the time being been made. In due course I will state my views on points of this kind.

I should like to make it plain that, unlike the Indian White Paper, this Memorandum does not contain recommendations which His Majesty's Government specifically advise should be adopted. As I have indicated above, it is a first sketch of the main lines of a possible Constitution if Burma is separated from India. I reserve to myself the right, when the time comes to discuss it, to suggest amendments on details which seem to me to be better suited to the conditions of Burma.

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* See Command Paper 4004/32.

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I may, perhaps, remind the Committee that it was not possible to make any provision for Burma in the Indian White Paper because at the time that document was framed we were still awaiting an expression of opinion from the Burma Legislative Council for or against the separation of Burma from India. The Committee will recollect that following the Prime Minister's statement at the conclusion of the Burma Conference the choice as between separation and federation was left to the Burma Legislative Council after an election at which this question was made the main issue. I would not propose now to go into details of the election campaign or of the proceedings of the Council in the session immediately following the election and in the special session summoned in April last at the request of the party leaders. I would simply say that, although registering emphatic opposition to federation with India on the same terms as any other Province—the only federation terms which could be offered to Burma—the Council has refused to choose separation on the basis of the Constitution outlined by the Prime Minister, which, I may remark, offered to Burmans control of almost the whole range of functions which it is proposed in the White Paper to transfer to popular control in the Indian Federal Government and in the Provinces.

The Committee, therefore, will apparently have to make their recommendation for or against the separation of Burma without any clear expression of opinion from the Burma Council: but I should hope that when the Committee reassembles after the recess an opportunity will be afforded to the Indian delegates to express their views, and that the Committee will also agree to invite to London a suitable number of representative Burmans for consultation.

S. H.

Scheme of Constitutional Reform in Burma if separated from India, presented by the Secretary of State for India to the Joint Committee of Parliament on Indian Constitutional Reform.

TABLE OF CONTENTS.

Scheme of Constitutional Reform in Burma if separated from India, presented by the Secretary of State for India to the Joint Committee of Parliament on Indian Constitutional Reform.

INTRODUCTION.

The object of this Introduction is to explain in the broadest outline the changes in the government of Burma which would be brought about by the adoption of the proposals which follow.

1. The principle underlying these proposals is that, in the event of Burma being separated from India, a unitary form of government would be set up there, under a Constitution composed, broadly speaking, on the same constitutional principles as have been embodied in the proposals made in regard to India. No attempt is made in this introduction to explain proposals common to both cases, as such proposals have been fully explained in the introduction to the Indian White Paper. The essential difference between the two cases is that the Constitution for Burma would not be complicated by the special considerations arising from the concept of an Indian Federation, and that the Government of Burma would accordingly combine in its own hands functions which, in the case of the proposals in the Indian White Paper, have necessarily been distributed between the Federation and the Provinces. Differing circumstances have made it necessary to depart from the Indian model in the case of a few matters, but the close correspondence of the two sets of proposals is shown by the number of proposals in this paper which are set out in plain type, a device which indicates that they are in substance identical with, although they necessarily differ in some respects in form from, corresponding provisions in the Indian proposals. References to the corresponding proposals in the Indian White Paper are indicated in the margin.

2. It has in the past been suggested* that in view of the differences of race, history, culture and political development between India and Burma, the linking of Burma to India in the last century for reasons of administrative convenience should not of necessity tie Burma to the same path of political progress as India; and the view has been advanced that the Empire affords examples, such as are to be found in Ceylon and elsewhere, of other types of constitutional arrangement which might be more

* Paragraph 198, Montagu-Chelmsford Report.

suited to the genius of the Burman people. But since the Government of India Act of 1919 Burma has been steadily carried forward by the tide of Indian reform, so that she now stands at the same point of political development as the other Provinces of British India. It does not therefore seem possible, even if it were politically expedient, to contemplate either a different line of advance for Burma from that mapped out for India or a different rate of progress. This position was recognised by the Government of Burma in a Despatch of the 13th August 1930,* in which they wrote :—

> " . . . It is of great importance that it should be made clear beyond all possibility of doubt or question that the separation of Burma will not involve for Burma any departure from the statement contained in the preamble to the Government of India Act, 1919, that the objective of British policy is the progressive realisation of responsible government in British India as an integral part of the Empire. As the Commission‡ say, that statement constitutes a pledge given by the British nation to British India. When the pledge was first announced in August 1917, Burma was a part of British India. The pledge, therefore, was given to Burma as well as to India, and even if Burma is separated from India the pledge still stands for Burma unimpaired and in all its force. The Government of Burma could not possibly agree to separation on any other terms, and they trust that His Majesty's Government will see fit to set at rest any doubts that may still exist on the subject. They attach importance to the point, for the allegation is frequently made in that section of the public press of Burma which is opposed to the recommendation of the Statutory Commission that the British Government will seize the opportunity of separation to reduce Burma to the status of a Crown Colony."

3. The Burma Sub-Committee of the first Indian Round Table Conference included in its Report,§ as its first recommendation, a request to His Majesty's Government—

> "to make a public announcement that the principle of separation is accepted, and that the prospects of constitutional advance towards responsible government held out to Burma as part of British India will not be prejudiced by separation."

The Indian Round Table Conference did not agree unanimously to the adoption of, and action on, this recommendation without further full consideration, but it was generally admitted that such further consideration was a matter between His Majesty's

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* Page 244, Cmd. 3712 of 1930.
‡ Simon Commission.
§ Page 50 of Cmd. 3772 of 1931.

Government and the Burmans themselves, and that Indians would abide by the issue.

4. The next step was taken by the Secretary of State for India in answer to a question in the House of Commons on 20th January 1931, when he made the following statement:—

> "As my Right Hon. Friend the Prime Minister stated yesterday in the final plenary session of the Round Table Conference, the Government have decided to proceed with the separation of Burma. They wish it to be understood that the prospects of constitutional advance held out to Burma as part of British India will not be prejudiced by this decision, and that the constitutional objective after separation will remain the progressive realisation of responsible government in Burma as an integral part of the Empire. In pursuance of this decision they intend to take such steps towards the framing, in consultation with public opinion in Burma, of a new Constitution as may be found most convenient and expeditious, their object being that the new Constitutions for India and Burma shall come into force as near as may be simultaneously."

5. In pursuance of this announcement the Burma Round Table Conference was convened "for the purpose of seeking the greatest possible measure of agreement regarding the future Constitution of Burma and the relations of Burma with India," the primary task of the Conference being "to discuss the lines of a Constitution for a separated Burma."

The Conference sat from the 27th November 1931 to the 12th January 1932, and its Report disclosed a considerable measure of agreement between the delegates from Burma and those from Parliament upon the type and details of a Constitution for a separated Burma. In the course of the Conference a statement was made on behalf of His Majesty's Government to the effect that the assurance given in the Prime Minister's statement on 19th January at the end of the first Indian Conference, and reiterated on 1st December 1931 at the close of the second Conference, defining His Majesty's Government's policy towards India and her advance through the new Constitution with its reservations and safeguards for a transitional period to full responsibility for her own government, applied in principle equally to Burma. The sketch of a Constitution for Burma outlined in some detail in the Prime Minister's statement at the end of the Burma Conference, and drawn up in the light of the Conference discussions, took therefore for its basic principle responsible government subject to certain "safeguards" in the field of administration which is now "provincial," and subject to

certain "reservations" as well as "safeguards" in the field now administered by the Central Government of India.

6. In his statement on 12th January 1932 the Prime Minister said, on behalf of His Majesty's Government, that if and when they were satisfied that the desire of the people of Burma was that the government of their country should be separated from that of India, they would take steps, subject to the approval of Parliament, to give effect to this desire.

In order to ascertain the desire of the people of Burma, advantage was to be taken of a general election to the Burma Legislative Council, which was due to be held in the following autumn. At this election the question of separation was inevitably the main issue before the electorate. But prior to the election a mass meeting of members of the various General Councils of Burmese Associations (who had hitherto refused to co-operate with the dyarchical Government in Burma, or even take part in elections), was held at the Jubilee Hall, Rangoon, in the first week of July. At this mass meeting it was resolved to form an Anti-Separation League. The policy of the League was laid down in five Resolutions, the effect of which was to reject the Constitution for a separated Burma outlined by the Prime Minister at the end of the Round Table Conference, and to declare the League's opposition to separation from India on the basis of this Constitution; to "protest emphatically" against the idea of permanent and unconditional inclusion in the Indian Federation, and to continue opposition to separation till a Constitution be granted "satisfactory and acceptable to the people of Burma." The meeting resolved also to take an active part in the impending election, with a view to combating separation on the conditions held out by the Prime Minister's statement. The election was held in November 1932, and the electorate returned a majority of candidates describing themselves as "Anti-Separationists" and as adherents to the policy adopted by the Anti-Separation League formed at the Jubilee Hall meeting.

7. In December 1932 the question of separation from India on the basis of the Constitution outlined by His Majesty's Government, or of inclusion, as a British Indian Province, in the Indian Federation, formed the subject of a protracted debate in the Burma Legislative Council. The Council, eventually, on 22nd December, adopted a Resolution which was identical in substance and almost in terms with those adopted at the Jubilee Hall meeting. It (1) opposed the separation of Burma from India on the basis of the Constitution outlined by the Prime Minister on 12th January 1932; (2) emphatically opposed the unconditional and permanent federation of Burma with India; (3) promised continued opposition to the separation of Burma from India except on certain

conditions; and (4) proposed that, in the event of these conditions not being fulfilled, Burma should be included in the Indian Federation on special conditions differentiating her from other Provinces and including the right to secede at will from the Federation.

8. Such a Resolution indicated no clear choice between the alternatives that had been placed before the Council. But it was hoped that, in the light of the Indian White Paper published in March 1933, and in the light also of the statement made by the Secretary of State for India on 20th March in answer to questions in the House of Commons, as to the nature of the two alternatives still open for choice by Burma, the Burma Legislative Council might yet give a less equivocal indication of the desire of the people of Burma in respect of the two courses offered. Accordingly, a special session of the Council was, at the request of the majority of the party leaders, summoned for 25th April 1933 and was held between that date and 6th May.

This special session proved entirely unfruitful. It was prorogued on 6th May without any resolution being adopted either for Burma's inclusion in the Indian Federation or for the separation of her government from that of India. As a result, there is available no other authoritative indication of the considered view of the representatives of the people of Burma as to the course which should be adopted than that contained in the negative and conditional Resolution of 22nd December 1932.

In the second paragraph of that Resolution the Burma Legislative Council expressed itself as emphatically opposed to unconditional and permanent federation with India, and such further evidence as has since accumulated regarding the attitude of the people and political parties of Burma, including statements by party leaders, points to the conclusion that, whatever division of opinion may exist in Burma as to the merits of the Constitution outlined in the Prime Minister's statement, there is an almost unanimous opinion in favour of ultimate separation from India and against federation on the same terms as the other Provinces of India.

General Description of the Scheme.

9. Before examining the scheme in detail it is desirable in the first place to refer to a question affecting the position within the Empire of a Burma separated from India. Unless provision to the contrary is made, the moment Burma ceases to be part of British India she will, by virtue of the Interpretation Act, 1889, which defines a "Colony" as "any part of His Majesty's dominions exclusive of the British Islands and of British India,"

automatically become "a Colony" for all purposes of English law. Although there is no necessary connection between the status of a "Colony" and that of a "Crown Colony," it is clearly desirable that the position of Burma should be unambiguous, and it would be necessary to insert in the Constitution a provision to the effect that, notwithstanding anything in the Interpretation Act, the expression "Colony" in any Act of the Parliament of the United Kingdom should not include Burma. At the same time provision would be made to ensure that Acts of Parliament which have hitherto applied to Burma as part of British India should continue to do so.

10. The separation of Burma from India would also require on the financial side that arrangements should be made for an equitable distribution between India and Burma of assets and liabilities existing at the time of coming into force of the Act; and provision would have to be made in the Act to give statutory effect to such determination and to such agreements as might be made thereunder by the respective Governments of the two countries.

11. In view of the fact that, as already pointed out, the constitutional principles underlying this scheme are substantially the same as those which have been applied in relation to the Indian proposals, much that has been said in the Indian White Paper is applicable also to the present proposals. But it is believed that the nature of the present proposals will more readily be understood if a short description of their general purport is given at the outset.

12. The scheme proposed is for an Executive consisting of the Governor as representing the Crown, aided and advised by a Council of Ministers responsible (subject to the qualifications to be explained later) to a Legislature composed of two Houses and consisting as to the Upper Chamber of 36 members, of whom one-half would be elected by the Lower Chamber and one-half would be non-official persons nominated by the Governor in his discretion for the purpose of making the Chamber as fully representative as possible of the interests of all sections of the community. The Lower Chamber would consist of rather more than 130 members, of whom a proportion would represent minorities and special interests.

13. In the Government so composed would be concentrated all the functions which, in the case of India, are proposed to be divided between the Federal and Provincial Authorities. But, as in India, the transfer of responsibility would not be complete. Certain Departments, namely, those concerned with Defence, External Affairs, Ecclesiastical Affairs, and the Affairs of

Excluded Areas (to be called, in the case of Burma, "Schedule A areas"), to which, for reasons presently to be explained, would be added, in the case of Burma, the control of monetary policy, currency and coinage, would be entrusted to the Governor personally, and these matters he would control in responsibility to His Majesty's Government and Parliament. The Governor would also be given powers similar to those proposed to be conferred on the Governor-General and Governors in India in relation to dissolution of the Legislature, refusal of assent to Bills, the grant of previous sanction to the introduction of certain classes of legislation, &c. The administration of all other matters would be transferred to Ministers responsible to the Legislature, but the Governor, again following the proposals made in relation to India, would be declared to have a special responsibility for certain matters, namely :—

(*a*) the prevention of any grave menace to the peace or tranquillity of Burma or any part thereof ;

(*b*) the safeguarding of the financial stability and credit of Burma ;

(*c*) the safeguarding of the legitimate interests of minorities ;

(*d*) the securing to the members of the Public Services of any rights provided for them by the Constitution Act and the safeguarding of their legitimate interests ;

(*e*) the prevention of commercial discrimination ;

(*f*) the administration of the areas named in Schedule B to the Constitution Act ;

(*g*) any matter which affects the administration of any department of government under the direction and control of the Governor.

The effect of entrusting these responsibilities to the Governor and the manner in which it is anticipated they would be discharged are described in the Indian White Paper, and it has not been thought necessary to reproduce here what is said in that Paper.

14. It is now possible to draw attention to the points in regard to which it has been thought the special requirements of Burma would make some divergence from the Indian proposals desirable, and to indicate the effect of those divergences.

15. In the first place it will be observed that it is proposed that the control of monetary policy, currency and coinage should be treated as a reserved subject. The reasons for this proposal are two-fold. Burma would at the outset be within the currency system of India, and it is likely to be some time before conditions would render it possible for her to adopt a separate currency

system of her own; the subject, moreover, is one in regard to which Burma possesses no expert knowledge. It is, therefore, proposed that these matters should be under the personal control of the Governor, who would be empowered to appoint a Financial Adviser directly responsible to him.

16. The different composition proposed for the Burma Legislature is, of course, mainly due to the absence of the detailed arrangements involved in the accession of the Indian States to the Indian Federation, but also in part to the fact that the communal difficulties which have necessitated special arrangements in India have, practically speaking, no counterpart in Burma.

17. The importance to Burma of the immigration problem might also render it necessary to make some special provision in this respect.

18. Again, in regard to the administration of what, in the case of India, have been described as Excluded or Partially Excluded areas, conditions in Burma may demand slightly different treatment. Detailed provisions for the treatment of such areas in Burma have therefore been excluded from the scope of this tentative scheme. It is proposed in the case of Burma that the areas falling within the two categories mentioned above should be enumerated in two separate Schedules, A and B, to the Constitution Act, and it will therefore be convenient to refer to them as Schedule A or Schedule B areas rather than Wholly or Partially Excluded areas. A provisional list of these areas will be found in Appendix II.

THE PUBLIC SERVICES.

19. As regards the All-India Services, Burma, like any other Indian Province, is at present served by the Indian Civil Service, the Indian Police, and the Indian Service of Engineers. But since the last instalment of reforms, when the administration of forests was made a transferred subject in Burma and Bombay, recruitment to the Indian Forest Service in Burma has ceased; recruitment now being made instead by the Local Government to the Burma Forest Service (Class I). As in the case of India, it is proposed that under the new Constitution recruitment should cease in Burma for the Indian Service of Engineers. As regards the Indian Civil Service and the Police, the Services which would correspond to these in Burma in future would, of course, be differently named, but the Secretary of State would continue to recruit Europeans to them in the same proportion as at present pending a statutory enquiry into the recruitment question, which would take place after a period to be determined (see proposal 93).

20. Burma is also served by officers of the Central Services, e.g. the Railway Services, the Indian Audit and Accounts Service, the Indian Posts and Telegraphs, and the Imperial Customs Service. Members of these Services remaining in Burma would be absorbed in new Services administered by the Government of Burma independently of the Government of India.

21. As regards Central Service officers now serving in Burma, some were recruited by the Government of India for service in Burma alone, others were recruited either by the Secretary of State or the Government of India without special reference to service in Burma Officers falling in the first category would be compulsorily transferred to the service of the Government of Burma. Transfer to the Government of Burma of officers falling in the second category would be subject to the consent of the officers themselves and of the authority which appointed them, and would be a matter for arrangement between the Governments of India and Burma.

22. In addition to the ordinary Provincial Service, which covers the whole of the civil administration in the middle and lower grades, Burma possesses the Burma Frontier Service. This Service is now controlled and recruited by the Local Government, but many of its members, in common with many members of the Provincial Services, have rights guaranteed by the Secretary of State. In view of the fact that if Burma were separated from India most of the officers of the Burma Frontier Service would serve in areas under the sole control of the Governor, it would seem proper that the Service should be recruited and controlled by the Governor acting in his discretion.

23. Existing service rights of present members of the above-mentioned Services would be preserved under the Constitution Act, subject to a few inevitable changes of which an example is that persons appointed by the Government of India would on transfer to service in Burma cease to be liable to dismissal by the Governor-General and become instead liable to dismissal by the Governor of Burma. The principal changes of this kind are indicated against notes in the Proposals. Persons appointed in future by the Secretary of State to the Services which would replace the Indian Civil Service and the Indian Police would enjoy the same rights as persons appointed by the Secretary of State to the Indian Civil Service and the Indian Police before the Constitution Act comes into force, except that in the first instance the right to retire under the regulations for premature retirement would, in the case of officers recruited after the inauguration of the new Constitution, extend only to

those appointed before the decision to be taken regarding future recruitment following upon the statutory enquiry referred to in paragraph 19 above. The right to retire under those regulations would not be enjoyed by officers serving permanently in Departments under the direct control of the Governor, but it would be extended to those officers of the present Central Services (Class I) who were appointed by the Secretary of State and who might be transferred permanently to Departments handed over to the control of Ministers in Burma.

24. As in the case of India, provision would be made for continued recruitment by the Secretary of State to the Ecclesiastical Department. The question of continued recruitment by the Secretary of State to the Superior Medical and Railway Services is under examination.

25. As regards Family Pension Funds, officers in Burma who, before the coming into force of the Constitution Act, were members of one of the All-India Family Pension Funds, would be permitted to retain their membership of such Fund.

NOTE.—*The use of italics in the following proposals indicates a divergence from the proposals of the Indian White Paper (Cmd. 4268 of 1933).*

Numbers of corresponding proposals in Indian White Paper.

THE PROPOSALS.

General.

1. The general principle underlying all these proposals is that all powers appertaining or incidental to the government of the territories for the time being belonging to His Majesty the King in Burma and all rights, authority and jurisdiction possessed in that country—whether flowing from His Majesty's sovereignty over the Province of Burma, or derived from treaty, grant, usage, sufferance or otherwise in relation to other territories—are vested in the Crown and are exercisable by and in the name of the King. 1

2. *The territories belonging to His Majesty the King in Burma will be declared to be those which at the date of coming into force of the Act constitute the Province of Burma in British India.* The date of the coming into force of the Act will be fixed by Royal Proclamation.

3. *Provision will be made to except Burma from the definition of "Colony" in the Interpretation Act.**

4. *Provision will be made for the continuance in force, until repealed by competent authority, of all laws of the Parliament of the United Kingdom which at present apply to Burma as part of British India, of laws of the Indian Legislature which apply to Burma, and of laws passed by the existing Burma Legislature, together with the body of rules, notifications and instructions issued under these laws.*

5. *It will be declared that all rights and obligations under international treaties, conventions or agreements which before the commencement of the Constitution Act were binding upon Burma as part of British India shall continue to be binding upon her.*‡

The Executive.

6. The executive authority in Burma, including the supreme command of the Military, Naval and Air Forces in Burma, will be

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* The object of proposals 3 and 4 is to ensure that all legislation and regulations which at present apply to Burma as part of British India still continue to apply to her, and to prevent the separation of Burma from British India from bringing her within the ambit of Imperial laws passed with reference to "Colonies" as defined in the Interpretation Act, 1889, i.e. "any part of His Majesty's Dominions exclusive of the British Islands and of British India." See paragraph 9 of Introduction.

‡ A similar provision is to be found in section 148 (1) of the South Africa Act. Whether or not such a provision is necessary or desirable in the Indian Constitution Act, it seems clearly desirable in the case of a separated Burma, to make it clear beyond doubt, on the lines of proposal 4, that all obligations hitherto binding upon Burma as part of British India shall continue to apply to her unless and until abrogated by competent authority.

exercisable on the King's behalf by a Governor holding office during His Majesty's pleasure, *who will also be Commander-in-Chief.** All executive acts will run in the name of the Governor.

8 **7.** The Governor will exercise the powers conferred upon him by the Constitution Act as executive head in Burma and such powers of His Majesty (not being powers inconsistent with the provisions of the Constitution Act) as His Majesty may be pleased by Letters Patent constituting the office of Governor to assign to him. In exercising all these powers the Governor will act in accordance with an Instrument of Instructions to be issued to him by the King.

9 **8.** The draft of the Governor's Instrument of Instructions (including the drafts of any amendments thereto) will be laid before both Houses of Parliament, and opportunity will be provided for each House of Parliament to make to His Majesty representations for an amendment, or addition to, or omission from, the Instructions.

10 **9.** The Governor's salary will be fixed by the Constitution Act, and all other payments in respect of his personal allowances, or of salaries and allowances of his personal and secretarial staff, will be fixed by Order in Council; none of these payments will be subject to the vote of the Legislature.

The Working of the Executive.

1 and 107 **10.** The Governor will himself direct and control the administration of certain Departments of State—namely, Defence, External Affairs, Ecclesiastical Affairs—and also the affairs of the areas named in Schedule A to the Constitution Act,‡ *and monetary policy, currency and coinage.*§

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* The Indian White Paper proposes to continue the separate appointment of a Commander-in-Chief in India. No corresponding appointment seems either necessary or desirable in the case of Burma, in view of the smaller size of the military forces concerned. But it is thought desirable to invest the Governor with the title of Commander-in-Chief to emphasise the fact that the executive military power is vested in him.

‡ See paragraph 18 of the Introduction.

§ In the case of the Indian Federation it is proposed to transfer the whole subject of Finance to the charge of a responsible Minister, but subject to the prior establishment and successful operation of a Reserve Bank and subject to a special responsibility laid upon the Governor-General for the preservation of the financial stability and credit of the Federation. There is no proposal to set up a Reserve Bank in Burma. In the case of Burma it is proposed, subject to a special responsibility of the same kind as that it is proposed to impose upon the Governor-General in India, to transfer the general subject of Finance to Ministerial control, but to reserve "Monetary policy, currency and coinage" to the Governor as a department in his sole charge (assisted by a Financial Adviser). It is, however, proposed that, for some time to come, Burma should continue within the Indian currency system.

11. In the administration of these Reserved Departments, the Governor will be assisted by one or more Counsellors, not exceeding three in number, who will be appointed by the Governor, and whose salaries and conditions of service will be prescribed by Order in Council. *Of these Counsellors one may, at the discretion of the Governor, be appointed to be Financial Adviser.* 12

12. For the purpose of aiding and advising the Governor in the exercise of powers conferred upon him by the Constitution Act, other than powers connected with the matters mentioned in paragraph 10, and matters left by law to his discretion, there will be a Council of Ministers. The Ministers will be chosen and summoned by the Governor and sworn as Members of the Council and will hold office during his pleasure. The persons appointed Ministers must be, or become within a stated period, members of one or other Chamber of the Legislature. 13

13. In his Instrument of Instructions the Governor will be enjoined *inter alia* to use his best endeavours to select his Ministers in the following manner, that is, in consultation with the person who, in his judgment, is likely to command the largest following in the Legislature, to appoint those persons who will best be in a position collectively to command the confidence of the Legislature. 14

14. The number of Ministers and the amounts of their respective salaries will be regulated by Act of the Legislature, but, until the Legislature otherwise determines, their number and their salaries will be such as the Governor determines, subject to limits to be laid down in the Constitution Act. 15

The salary of a Minister will not be subject to variation during his term of office.

15. The Governor will, whenever he thinks fit, preside at meetings of his Council of Ministers. He will also be authorised, after consultation with his Ministers, to make at his discretion any rules which he regards as requisite to regulate the disposal of Government business and the procedure to be observed in its conduct, and for the transmission to himself and to his Counsellors in the Reserved Departments, and to the Financial Adviser, of all such information as he may direct. 16

16. The Governor will be empowered, at his discretion, after consultation with Ministers, to appoint a Financial Adviser to assist him, and also to advise Ministers on matters regarding which they may seek his advice. The Financial Adviser will be 17

responsible to the Governor and will hold office during pleasure; his salary and conditions of service will be fixed by the Governor in his discretion, and will not be subject to the vote of the Legislature.

18 and 70 **17.** Apart from his exclusive responsibility for the Reserved Departments (proposal 10), the Governor will be declared to have a "special responsibility"* in respect of—

(*a*) the prevention of any grave menace to the peace or tranquillity of Burma or any part thereof;
(*b*) the safeguarding of the financial stability and credit of Burma;
(*c*) the safeguarding of the legitimate interests of minorities;
(*d*) the securing to the members of the Public Services of any rights provided for them by the Constitution Act and the safeguarding of their legitimate interests;
(*e*) the prevention of commercial discrimination;
(*f*) the administration of the areas named in Schedule B to the Constitution Act.‡
(*g*) any matter which affects the administration of any department of government under the direction and control of the Governor.

It will be for the Governor to determine in his discretion whether any of the "special responsibilities" here described are involved by any given circumstances.

19 **18.** If in any case in which, in the opinion of the Governor, a special responsibility is imposed upon him it appears to him, after considering such advice as has been given him by his Ministers, that the due discharge of his responsibility so requires, he will have full discretion to act as he thinks fit, but in so acting he will be guided by any directions which may be contained in his Instrument of Instructions.

20 **19.** The Governor in administering the Departments under his own direction and control, in taking action for the discharge of any special responsibility, and in exercising any discretion vested in him by the Constitution Act, will act in accordance with such directions, if any, not being directions inconsistent with anything in his Instructions, as may be given to him by a principal Secretary of State.

21 **20.** The Governor's Instrument of Instructions will accordingly contain *inter alia* provision on the following lines:—

"In matters arising in the Departments which you direct and control on your own responsibility, or in matters the

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* See paragraphs 25 and 47 of the Introduction in the Indian White Paper.

‡ See paragraph 18 of Introduction.

determination of which is by law committed to your discretion, it is Our will and pleasure that you should act in exercise of the powers by law conferred upon you in such a manner as you may judge right and expedient for the good government of Burma, subject, however, to such directions as you may from time to time receive from one of Our principal Secretaries of State.

"In matters arising out of the exercise of powers conferred upon you for the purposes of the government of Burma other than those specified in the preceding paragraph it is Our will and pleasure that you should, in the exercise of the powers by law conferred upon you, be guided by the advice of your Ministers, unless so to be guided would, in your judgment, be inconsistent with the fulfilment of your special responsibility for any of the matters in respect of which a special responsibility is by law committed to you; in which case it is Our will and pleasure that you should, notwithstanding your Ministers' advice, act in exercise of the powers by law conferred upon you in such manner as you judge requisite for the fulfilment of your special responsibilities, subject, however, to such directions as you may from time to time receive from one of Our principal Secretaries of State."

The Legislature.*

General.

21. The Legislature will consist of the King, represented by the Governor, and two Chambers, to be styled the Senate and the House of Representatives, and will be summoned to meet for 22

* The proposals for the constitution of the Legislature are modelled closely on those for the Indian Federal Legislature, but it is not possible for them to correspond exactly. Such minor differences as are suggested rest on the conclusions of the Burma Round Table Conference or upon the advice of the Government of Burma. The reason for these differences is that the circumstances in Burma differ from those which exist in India. In the first place, the communal problem in the Indian sense does not exist in Burma, and apart from special provision for the reasonable representation of certain well-defined minority communities such as the Indian and European, it is proposed that members of the Lower Chamber in Burma should be elected by general constituencies on a common franchise. Secondly, there are no States to which special representation in the Legislature requires to be given. It is proposed that the Upper Chamber in Burma should be constituted as to half of its 36 members by election by the Lower Chamber and that the remaining half should consist of non-officials nominated by the Governor in his discretion, with the object of making the Upper Chamber as far as possible fully representtative of the interests of different sections of the population (proposal 25). The Government of Burma advocate a minimum age limit of 35 for membership of the Burma Senate, but as a limit of 30 has been proposed for Second Chambers in the Indian Provinces proposal 26 makes no specific

the first time not later than a date to be specified in the Proclamation which fixes a date for the coming into force of the Act.

Every Act of the Legislature will be expressed as having been enacted by the Governor, by and with the consent of both Chambers.

23 **22.** Power to summon, and appoint places for the meeting of, the Chambers, to prorogue them and to dissolve them, either separately or simultaneously, will be vested in the Governor at his discretion, subject to the requirement that they shall meet at least once in every year, and that not more than 12 months shall intervene between the end of one session and the commencement of the next.

The Governor will also be empowered to summon the Chambers for the purpose of addressing them.

24 **23.** Each House of Representatives will continue for five years unless sooner dissolved. *No term will be fixed to the life of the Senate.*

25 **24.** A Member of the Council of Ministers will have the right to speak, but not to vote, in the Chamber of which he is not a Member.

A Counsellor will be *ex-officio* an additional member of both Chambers for all purposes except the right of voting.

The Composition of the Chambers.

26 **25.** The Senate will consist, apart from the Governor's Counsellors, *of not more than 36 members of whom 18 will be elected by the House of Representatives and 18 (who shall not be officials) will be nominated by the Governor in his discretion.*

27 **26.** A member of the Senate will be required to be *not less than* (30 *or* 35) *years of age* and a British subject, and to possess certain prescribed property qualifications, or to possess qualifications to

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Continued from previous page.]

suggestion. It is also proposed that, subject to the Governor's power of dissolution in exceptional circumstances, the life of the Upper Chamber should not be subject to termination (proposal 23). Some device is, however, required to ensure that it remains in touch with public opinion. It is therefore proposed (proposal 28) that one-quarter of the members should retire every two years.

The only other point of difference in this connection from the Indian proposals is that in the case of Burma it is proposed (proposal 37) that the powers of the two Chambers should be entirely equal except for the vesting of Supply in the Lower Chamber alone, while in the case of the Indian Federal Legislature not only Supply, but also the initiation of Money Bills, rests with the Lower House alone, subject, as regards Supply, to a power in the Upper Chamber, if a motion to that effect is moved on behalf of Government, of requiring a Joint Session to be called if it disapproves of a reduction or rejection of any Demand by the Lower Chamber.

be prescribed by the Governor with a view to conferring qualification upon persons who have rendered distinguished public service.

27. If the seat of a Senator becomes vacant, his place will be **28**
filled either by election by the House of Representatives or by nomination by the Governor, according to the method by which he had himself obtained his seat.

28. *One-quarter of the Senators will retire at the expiration of every period of two years, this quarter being composed alternately of one-half of the nominated members and one-half of the elected members; the first quarter to retire to consist of nominated members. The selection of those Senators who are to retire at the expiration of the first two periods of two years after the first summoning of the Senate to be determined by lot. (Subject to the above arrangements the tenure of seats to be for eight years).*

***29.** The House of Representatives will consist, apart from the **29**
Governor's Counsellors, *of* [132] *members, of whom will be elected to represent general constituencies and elected to represent special constituencies.*

30. A member of the House of Representatives will be required **30**
to be not less than 25 years of age and a British subject.

31. Casual vacancies in the House of Representatives will be **31**
filled by the same method as that followed in the case of the election of the vacating member.

32. Every member of either Chamber will be required to make **33**
and subscribe an oath or affirmation in the following form before taking his seat:—

> "I, *A. B.*, having been $\frac{\text{elected}}{\text{nominated}}$ a member of this $\frac{\text{Senate}}{\text{House of Representatives}}$, do solemnly swear (or affirm) that I will be faithful and bear true allegiance to His Majesty the King, His heirs and successors, and that I will faithfully discharge the duty upon which I am about to enter."

33. The following disqualifications will be prescribed for **34**
membership of either Chamber:—

(*a*) in the case of elected members or of members nominated by the Governor, the holding of any office of profit under the Crown other than that of Minister;

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* It is not at present possible to put forward a definite franchise scheme, or propose what should be the exact size of the House and in what proportions seats should be allotted to general constituencies and to minorities and special interests. These matters would have to be further discussed.

(*b*) a declaration of unsoundness of mind by a competent Court;

(*c*) being an undischarged bankrupt;

(*d*) conviction of the offence of corrupt practices or other election offences;

(*e*) in the case of a legal practitioner, suspension from practice by order of a competent Court;

but provision will be made that the last two disqualifications may be removed by order of the Governor at his discretion;

(*f*) having an undisclosed interest in any contract with the Government; provided that the mere holding of shares in a company will not by itself involve this disqualification.

35 **34**. A person sitting or voting as a member of either Chamber when he is not qualified for, or is disqualified from, membership will be made liable to a penalty of in respect of each day on which he so sits or votes, to be recovered in the High Court by suit instituted with the consent of a Principal Law Officer of the Government.

36 **35.** Subject to the Rules and Standing Orders affecting the Chamber there will be freedom of speech in both Chambers of the Legislature. No person will be liable to any proceedings in any Court by reason of his speech or vote in either Chamber, or by reason of anything contained in any official report of the proceedings in either Chamber.

37 **36.** The following matters connected with elections and electoral procedure, in so far as provision is not made by the Act, will be regulated by Order in Council:—

(*a*) The qualifications of electors;

(*b*) The delimitation of constituencies;

(*c*) The method of election of representatives of minorities and other interests;

(*d*) the filling of casual vacancies; and

(*e*) Other matters ancillary to the above;

with provision that Orders in Council framed for these purposes shall be laid in draft for a stated period before each House of Parliament.

For matters other than the above connected with the conduct of elections the Legislature will be empowered to make provision by Act. But until the Legislature otherwise determines, existing laws or rules, including the law or rules providing for the prohibition and punishment of corrupt practices or election offences and for determining the decision of disputed elections, will remain in force, subject, however, to such modifications or

adaptations to be made by Order in Council as may be required in order to adapt their provisions to the requirements of the new Constitution.

Legislative Procedure.

37. Bills may be introduced in either Chamber. **38**

38. The Governor will be empowered at his discretion, but **39**
subject to the provisions of the Constitution Act and to his Instrument of Instructions, to assent in His Majesty's name to a Bill which has been passed by both Chambers, or to withhold his assent, or to reserve the Bill for the signification of the King's pleasure. But before taking any of these courses it will be open to the Governor to remit a Bill to the Chambers with a Message requesting its reconsideration in whole or in part, together with such amendments, if any, as he may recommend.

Without prejudice to the provisions of proposal 40 no Bill will become law until it has been agreed to by both Chambers either without amendment or with such amendments only as are agreed to by both Chambers, and has been assented to by the Governor, or, in the case of a reserved Bill, until His Majesty in Council has signified his assent.

39. Any Act assented to by the Governor will within twelve **40**
months be subject to disallowance by His Majesty in Council.

40. In the case of disagreement between the Chambers, the **41**
Governor will be empowered, in any case in which a Bill passed by one Chamber has not, within three months thereafter, been passed by the other, either without amendments or with agreed amendments, to summon the two Chambers to meet in a joint sitting for the purpose of reaching a decision on the Bill. The members present at a Joint Session will deliberate and vote together upon the Bill in the form in which it finally left the Chamber in which it was introduced and upon amendments, if any, made therein by one Chamber and not agreed to by the other. Any such amendments which are affirmed by a majority of the total number of members voting at the Joint Session will be deemed to have been carried, and if the Bill, with the amendments, if any, so carried, is affirmed by a majority of the members voting at the Joint Session, it shall be taken to have been duly passed by both Chambers.

In the case of a Money Bill, or in cases where, in the Governor's opinion, a decision on the Bill cannot, consistently with the fulfilment of his responsibilities for a Reserved Department* or of any of his "special responsibilities," be deferred, the Governor will be empowered in his discretion to summon a Joint Session forthwith.

* These responsibilities cover all matters specified in proposal 10.

42 **41.** In order to enable the Governor to fulfil the responsibilities imposed upon him personally for the administration of the Reserved Departments and his "special responsibilities," he will be empowered at his discretion—

(*a*) to present, or cause to be presented, a Bill to either Chamber, and to declare by Message to both Chambers that it is essential, having regard to his responsibilities for a Reserved Department or, as the case may be, to any of his "special responsibilities," that the Bill so presented should become law before a date specified in the Message; and

(*b*) to declare by Message in respect of any Bill already introduced in either Chamber that it should for similar reasons become law before a stated date in a form specified in the Message.

A Bill which is the subject of such a Message will then be considered or reconsidered by the Chambers, as the case may require, and if, before the date specified, it is not passed by the two Chambers, or is not passed by the two Chambers in the form specified, the Governor will be empowered at his discretion to enact it as a Governor's Act, either with or without any amendments made by either Chamber after receipt of his Message.

A Governor's Act so enacted will have the same force and effect as an Act of the Legislature, and will be subject to disallowance in the same manner, but the Governor's competence to legislate under this provision will not extend beyond the competence of the Legislature as defined by the Constitution.

43 **42.** It will be made clear by means of the enacting words of a Governor's Act, which will be distinguished from the enacting words of an ordinary Act (see proposal 21), that Acts of the former description are enacted on the Governor's own responsibility.

44 **43.** Provision will also be made empowering the Governor in his discretion, in any case in which he considers that a Bill introduced, or proposed for introduction, or any clause thereof, or any amendment to a Bill moved or proposed, would affect the discharge of his "special responsibility" for the prevention of any grave menace to the peace or tranquillity of Burma, to direct that the Bill, clause or amendment shall not be further proceeded with.

Procedure with regard to Financial Proposals.

45 **44.** A recommendation of the Governor will be required for any proposal in either Chamber of the Legislature for the imposition

of taxation, for the appropriation of public revenues, or any proposal affecting the public debt, or affecting, or imposing any charge upon, public revenues.*

45. The Governor will cause a statement of the estimated revenue and expenditure, together with a statement of all proposals for the appropriation of those revenues, to be laid, in respect of every financial year, before both Chambers of the Legislature. **46**

The statement of proposals for appropriation will be so arranged as—

(*a*) to distinguish between those proposals which will and those which will not (see proposal 47) be submitted to the vote of the Legislature, and amongst the latter to distinguish those which are in the nature of standing charges (for example, the items marked † in the list in proposal 47); and

(*b*) to specify separately those additional proposals (if any), whether under the Votable or non-Votable Heads, which the Governor regards as necessary for the discharge of any of his "special responsibilities."

46. The proposals for the appropriation of revenues, other than proposals relating to the Heads of Expenditure enumerated in paragraph 47, and proposals (if any) made by the Governor in discharge of his special responsibilities, will be submitted in the form of Demands for Grants to the vote of the House of Representatives. The House of Representatives will be empowered to assent or refuse assent to any Demand or to reduce the amount specified therein, whether by way of a general reduction of the total amount of the Demand or of the reduction or omission of any specific item or items included in it. **47**

47. Proposals for appropriations of revenues, if they relate to the Heads of Expenditure enumerated in this paragraph, will not be submitted to the vote of either Chamber of the Legislature, but will be open to discussion in both Chambers, except in the case of the salary and allowances of the Governor. **49**

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* This paragraph represents the constitutional principle embodied in Standing Order 66 of the House of Commons, which finds a place in practically every Constitution Act throughout the British Empire:—

"This House will receive no petition for any sum relating to public service or proceed upon any motion for any grant or charge upon the public revenue, whether payable out of the consolidated fund or out of money to be provided by Parliament, unless recommended from the Crown."

The Heads of Expenditure referred to above are :—

(i) Interest, Sinking Fund Charges and other expenditure relating to the raising, service and management of loans† ; expenditure fixed by or under the Constitution Act† ; expenditure required to satisfy a decree of any Court or an arbitral award.

(ii) The salary and allowances of the Governor† ; of Ministers† ; of the Governor's Counsellors†; of the Financial Adviser† ; of the Governor's personal and secretarial staff and of the staff of the Financial Adviser.

(iii) Expenditure required for the Reserved Departments* ; or for the discharge of the duties imposed by the Constitution Act on a principal Secretary of State.

(iv) The salaries and pensions (including pensions payable to their dependants) of Judges of the High Court†; and expenditure certified by the Governor after consultation with his Ministers as required for the expenses of that Court.

(v) Salaries and pensions payable to, or to the dependants of, certain members of the Public Services and certain other sums payable to such persons.‡

The Governor will be empowered to decide finally and conclusively, for all purposes, any question whether a particular item of expenditure does or does not fall under any of the Heads of Expenditure referred to in this paragraph.

50 **48.** At the conclusion of the budget proceedings the Governor will authenticate by his signature all appropriations, whether voted or those relating to matters enumerated in proposal 47 ; the appropriations so authenticated will be laid before both Chambers of the Legislature, but will not be open to discussion.

In the appropriations so authenticated the Governor will be empowered to include any additional amounts which he regards as necessary for the discharge of any of his special responsibilities, so, however, that the total amount authenticated under any head is not in excess of the amount originally laid before the Legislature under that Head in the Statement of proposals for appropriation.

The authentication of the Governor will be sufficient authority for the due application of the sums involved.

51 **49.** The provisions of proposals 44 to 48 inclusive will apply with the necessary modifications to proposals for the appropriation of revenues to meet expenditure not included in the Annual

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* i.e. *all* the matters specified in proposal 10.

‡ See Appendix I, Part III.

Estimates which it may become necessary to incur during the course of the financial year.

Procedure in the Legislature.

50. The procedure and conduct of business in each Chamber of the Legislature will be regulated by rules to be made, subject to the provisions of the Constitution Act, by each Chamber; but the Governor will be empowered at his discretion, after consultation with the President, or Speaker, as the case may be, to make rules— 52

(*a*) regulating the procedure of, and the conduct of business in, the Chamber in relation to matters arising out of, or affecting, the administration of the Reserved Departments, or any other special responsibilities with which he is charged; and

*(*b*) prohibiting, save with the prior consent of the Governor given at his discretion, the discussion of or the asking of questions on any matter affecting relations between His Majesty or the Governor and any foreign Prince or State.

In the event of conflict between a rule so made by the Governor and any rule made by the Chamber, the former will prevail and the latter will, to the extent of the inconsistency, be void.

Emergency Powers of the Governor in relation to Legislation.

51. The Governor will be empowered at his discretion, if at any time he is satisfied that the requirements of the Reserved Departments, or any of the "special responsibilities" with which he is charged by the Constitution Act render it necessary, to make and promulgate such Ordinances as, in his opinion, the circumstances of the case require, containing such provisions as it would have been competent, under the provisions of the Constitution Act, for the Legislature to enact. 53

An Ordinance promulgated under the proposals contained in this paragraph will continue in operation for such period, not exceeding six months, as may be specified therein; the Governor will, however, have power to renew any Ordinance for a second period not exceeding six months, but in that event it will be laid before both Houses of Parliament.

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* Some provision will also be required on the lines of proposal 109 of the Indian White Paper, having due regard to the fact that the areas in Burma which will correspond to Excluded and Partially Excluded Areas in India may require slightly different treatment.

An Ordinance will have the same force and effect, whilst in operation, as an Act of the Legislature; but every such Ordinance will be subject to the provisions of the Constitution Act relating to disallowance of Acts and will be subject to withdrawal at any time by the Governor.

54 **52.** In addition to the powers to be conferred upon the Governor at his discretion in the preceding paragraph, the Governor will further be empowered if his Ministers are satisfied, at a time when the Legislature is not in session, that an emergency exists which renders such a course necessary, to make and promulgate any such Ordinances for the good government of Burma, or any part thereof, as the circumstances of the case require, containing such provisions as, under the Constitution Act, it would have been competent for the Legislature to enact.

An Ordinance promulgated under the proposals contained in this paragraph will have, while in operation, the same force and effect as an Act of the Legislature, but every such Ordinance—

(*a*) will be required to be laid before the Legislature and will cease to operate at the expiry of six weeks from the date of the reassembly of the Legislature, unless both Chambers have in the meantime disapproved it by Resolution, in which case it will cease to operate forthwith; and

(*b*) will be subject to the provisions of the Constitution Act relating to disallowance as if it were an Act of the Legislature; it will also be subject to withdrawal at any time by the Governor.

Provisions in the event of a Breakdown in the Constitution.

55 **53.** The Governor will be empowered at his discretion, if at any time he is satisfied that a situation has arisen which renders it for the time being impossible for the Government to be carried on in accordance with the provisions of the Constitution Act, by Proclamation to assume to himself all such powers vested by law in any authority in Burma, as appear to him to be necessary for the purpose of securing that the Government shall be carried on effectively.

A Proclamation so issued will have the same force and effect as an Act of Parliament; will be communicated forthwith to a Secretary of State and laid before Parliament; will cease to operate at the expiry of six months unless, before the expiry of that period, it has been approved by Resolutions of both Houses of Parliament; and may at any time be revoked by Resolutions by both Houses of Parliament.

Powers of the Legislature.

54. *Subject to any special provisions that may be made in respect of the areas to be named in Schedules to the Constitution Act, the Legislature will have power to make laws—* Replaces proposals **111** to **118** of the Indian White Paper.

(*a*) *for all persons, courts, places and things within the territories for the time being belonging to His Majesty in Burma ; and*

(*b*) *for all subjects of His Majesty and servants of the Crown in Burma but without and beyond the territories for the time being belonging to His Majesty ;*

(*c*) *for all subjects of His Majesty being of Burman domicile without and beyond the confines of Burma ; and*

(*d*) *for the raising, maintaining, disciplining and regulating of officers, sailors, marines, soldiers, airmen and followers in his Majesty's Burman forces, wherever they are serving, in so far as they are not subject to the Naval Discipline Act or the Army Act or the Air Force Act or to any similar law enacted by the competent authority in India.*

The power to make laws as above will include the power to repeal or amend laws enacted, before the separation of Burma from India, by the Indian Legislature or the Provincial Legislature of Burma.

55. It will be outside the competence of the Legislature to make any law affecting the Sovereign or the Royal Family, the sovereignty or dominion of the Crown over any part of Burma or the law of British nationality. It will similarly not be competent to make any law affecting the Naval Discipline Act, the Army Act and the Air Force Act, *or any similar laws enacted by the competent authority in India. It will also be provided that all authorities in Burma shall give full effect to such Indian laws in respect of persons in Burma to whom they apply.* Neither will the Legislature be able to amend the Constitution Act except in so far as the Act itself provides. **110**

56. Subject as above, the consent of the Governor, given at his discretion, will be required to the introduction in the Legislature of legislation which repeals or amends or is repugnant to any Act of Parliament extending to Burma, or any Governor's Act or Ordinance* or which affects any Department or matter reserved for the control of the Governor, or religion or religious rites and usages, or the procedure regulating criminal proceedings against European British subjects. **119**

57. The giving of consent by the Governor to the introduction of a Bill will be without prejudice to his power of withholding his assent to, or of reserving, the Bill when passed ; but an Act will not be invalid by reason only that prior consent to its introduction **12**

* A Governor's Ordinance for the purpose of this proposal means an Ordinance as described in proposals 51 and 52.

was not given, provided that it was duly assented to by the Governor, or by His Majesty in the case of Bills reserved for His Majesty's pleasure.

122 **58.** The Legislature will have no power to make laws subjecting in Burma any British subject (including companies, partnerships or associations incorporated by or under any law in force in Burma), in respect of taxation, the holding of property, the carrying on of any profession, trade, business or occupation, or the employment of any servant or agent or in respect of residence or travel within the boundaries of Burma, to any disability or discrimination based upon his religion, descent, caste, colour or place of birth; but no law will be deemed to be discriminatory for this purpose on the ground only that it prohibits either absolutely or with exceptions the sale or mortgage of agricultural land in any area to any person not belonging to some class recognised as being a class of persons engaged in, or connected with, agriculture in that area, or which recognises the existence of some right, privilege or disability attaching to the members of a community by virtue of some privilege, law or custom having the force of law.

A law, however, which might otherwise be void on the ground of its discriminatory character will be valid if previously declared by the Governor, at his discretion, to be necessary in the interests of the peace and tranquillity of Burma or any part thereof.

123 **59.** The Legislature will have no power to make laws subjecting any British subject domiciled in the United Kingdom (including companies and partnerships incorporated or constituted by or under the laws of the United Kingdom) to any disability or discrimination in the exercise of certain specified rights, if a Burman subject of His Majesty or a company, &c., constituted by or under the law in force in Burma, as the case may be, would not, in the exercise in the United Kingdom of the corresponding right, be subject in the United Kingdom to any disability or discrimination of the same or a similar character. The rights in question are the right to enter, travel and reside in any part of Burma; to hold property of any kind; to carry on any trade or business in, or with the inhabitants of, Burma; and to appoint and employ at discretion, agents and servants for any of the above purposes.

Provision will be made on the same lines for equal treatment on a reciprocal basis of ships registered respectively in Burma and the United Kingdom.

60. *It will be necessary to consider whether the principles underlying proposal* 59 *should be adopted as between Burma and India.*

61. An Act of the Legislature, however, which, with a view to the encouragement of trade or industry, authorises the payment of grants, bounties or subsidies out of public funds, will not be held to fall within the terms of paragraphs 58 and 59 by reason only of the fact that it is limited to persons or companies resident or incorporated in Burma, or that it imposes on persons or companies not trading in Burma before such Act was passed as a condition of eligibility for any such grant, bounty or subsidy, that a company shall be incorporated by or under the laws of Burma, or conditions as to the composition of the Board of Directors or as to the facilities to be given for training Burmans. **124**

62. Provision will require to be made in regard to the registration in Burma of medical practitioners registered in the United Kingdom and in India. (See footnote to proposal 123 of the Indian White Paper.)

FINANCIAL POWERS AND RELATIONS.

Property, Contracts and Suits.

63. All legal proceedings which may be at present instituted by or against the Secretary of State in Council in respect of matters in or concerning Burma, will, subject to the reservations specified below, be instituted by or against the Government of Burma. **130**

64. *Arrangements will be made for the determination of an equitable distribution between India and Burma of assets and liabilities existing at the time of coming into force of the Act; and provision will be made in the Act to give statutory effect to such determination and to such agreements as may be made thereunder by the respective Governments of the two countries.*

The proposals contained in paragraphs 133 *and* 134 *of the Indian White Paper will, if adopted, have the effect of maintaining as against the Secretary of State for India remedies which before the Act might have been enforced against the Secretary of State in Council, both as regards matters arising in India and matters arising in Burma. Provision will, therefore, be made in the distribution of assets and liabilities referred to above for the determination, as between the revenues of India and of Burma, of the ultimate liability in respect of such matters; and the Secretary of State will be given power to secure the implementing of any judgment or award against him in respect of a matter arising in Burma.*

65. *Subject to the agreed distribution provided for in the preceding paragraph, all property in Burma which immediately before the date of the coming into force of the Constitution Act was vested in His Majes for the purposes of the government of India will be vested in His Majesty for the purposes of the government of Burma.* **131**

132 **66.** Existing powers of the Secretary of State in Council in relation to property allocated under paragraph 64 and in relation to the acquisition of property and the making of contracts will be transferred to and become powers of the Governor. All contracts, &c., made under the powers so transferred will be expressed to be made by the Governor and may be executed and made in such manner and by such person as he may direct, but no personal liability will be incurred by any person making or executing such a contract.

133 **67.** The Secretary of State will be substituted for the Secretary of State in Council in any proceedings instituted before the commencement of the Act by or against the Secretary of State in Council.

Statutory Railway Board.

68. Provision will be made for vesting the management of the railways in Burma in a Statutory Railway Board constituted on lines analogous to those of the corresponding body to be set up in India.

Borrowing Powers.

146 **69.** The Government of Burma will have power to borrow for any of the purposes of the government of Burma upon the security of the revenues of Burma within such limits as may from time to time be fixed by law.

147 **70.** Arrangements will require to be made to secure that Burma sterling loans shall be eligible for Trustee status on appropriate conditions.

General.

150 **71.** Provision will be made securing that the revenues of Burma shall be applied for the purposes of the government of Burma alone.

THE HIGH COURT.

168 **72.** The existing High Court established by Letters Patent will be maintained.

169 **73.** The Judges of the High Court will continue to be appointed by His Majesty and will hold office during good behaviour. The tenure of office of any Judge will cease on his attaining the age of 62 years, and any Judge may resign his office to the Governor.

74. The qualifications for appointment as Chief Justice or Judge will remain as at present, except that any person qualified to be a Judge will be eligible for appointment as Chief Justice, and that the existing provision, which requires that one-third of the Judges must be barristers or members of the Faculty of Advocates in Scotland and that one-third must be members of the Indian Civil Service, will be abrogated. 170

75. The salaries, pensions, leave and other allowances of Judges of the High Court will be regulated by Order in Council. But neither the salary of a Judge nor his rights in respect of leave of absence or pension will be liable to be varied to his disadvantage during his tenure of office. 171

76. The power to appoint temporary additional Judges and to fill temporary vacancies in the High Court will be vested in the Governor in his discretion. 172

77. Subject to any provision which may be made by the Legislature the High Court will have the jurisdiction, powers and authority vested in it at the time of the commencement of the Constitution Act. 173

78. The Legislature will have power to regulate the powers of superintendence exercised by the High Court over subordinate Courts. 175

79. *As regards appeals to the King in Council, subject always to the right of His Majesty to grant special leave, existing rights of appeal will be preserved, and in addition an appeal will lie without leave from the High Court to the Privy Council in any matter involving the interpretation of the Constitution Act.*

THE SECRETARY OF STATE'S ADVISERS.

80. The Secretary of State will be empowered to appoint *two persons* (*of whom one must have held office for at least* 10 *years under the Crown in Burma*) for the purpose of advising him. 176

81. Any person so appointed will hold office for a term of five years, will not be eligible for reappointment, and will not be capable, while holding his appointment, of sitting or voting in Parliament. 177

82. The salary of the Secretary of State's advisers will be £   a year, to be defrayed from monies provided by Parliament. 178

83. The Secretary of State will determine the matters upon which he will consult his advisers, and will be at liberty to seek their advice, either individually or together, on any matter. But so long as a Secretary of State remains the authority charged 179

by the Constitution Act with the control of any members of the Public Services in Burma he will be required to lay before his advisers *sitting jointly with the advisers, provision for whose appointment is made in proposal 176 of the Indian White Paper*, and to obtain the concurrence *of the majority of the body so formed* to any draft of rules which he proposes to make under the Constitution Act for the purpose of regulating conditions of service, and any order which he proposes to make upon an appeal admissible to him under the Constitution Act from any such member.

THE PUBLIC SERVICES.

General.

180 **84.** Every person employed under the Crown in Burma will be given a full indemnity against civil and criminal proceedings in respect of all acts before the commencement of the Constitution Act done in good faith and done or purported to be done in the execution of his duty.

181 **85.** Every person employed in a civil capacity under the Crown in Burma will hold office during His Majesty's pleasure, but he will not be liable to dismissal by any authority subordinate to the authority by whom he was appointed*; or to dismissal or reduction without being given formal notice of any charge made against him and an opportunity of defending himself, unless he has been convicted in a criminal Court or has absconded.

(a) *Persons appointed by the Secretary of State in Council before the commencement of the Constitution Act, and persons to be appointed by the Secretary of State thereafter.*

182 **86.** Every person appointed by the Secretary of State in Council before the commencement of the Constitution Act will continue to enjoy all service rights possessed by him at that date or will receive such compensation for the loss of any of them as the Secretary of State may consider just and equitable. The Secretary of State will also be empowered to award compensation in any other case in which he considers it to be just and equitable that compensation should be awarded.

A summary of the principal existing service rights of persons appointed by the Secretary of State in Council is set out in Appendix I (Part I). These rights will be in part embodied in the Constitution Act and in part provided for by rules made by the Secretary of State.

NOTE.—*An appeal lying previously to the Governor-General of India will in future lie direct to the Secretary of State.*

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* Persons appointed by the Governor-General or by the Governor-General in Council and transferred permanently for service in Burma will be liable to dismissal by the Governor of Burma, and persons appointed by subordinate authorities in India and similarly transferred will be liable to dismissal by authorities in Burma of corresponding status.

87. The Secretary of State will after the commencement of the Act make appointments to the Services which will replace the Indian Civil Service and the Indian Police in Burma* and the Ecclesiastical Department. The conditions of service of all persons so appointed, including conditions as to pay and allowances, pensions and discipline and conduct, will be regulated by rules made by the Secretary of State. It is intended that these rules shall in substance be the same as those now applicable in the case of persons appointed by the Secretary of State in Council before the commencement of the Act. **183**

88. Every person appointed by the Secretary of State will continue to enjoy all service rights existing as at the date of his appointment, or will receive such compensation for the loss of any of them as the Secretary of State may consider just and equitable. The Secretary of State will also be empowered to award compensation to any such person in any other case in which he considers it to be just and equitable that compensation should be awarded. **184**

89. The Secretary of State will be required to make rules regulating the number and character of posts to be held by persons appointed by the Crown, by the Secretary of State in Council or by the Secretary of State, and prohibiting the filling of any post declared to be a reserved post otherwise than by the appointment of one of those persons, or the keeping vacant of any reserved post for a period longer than three months without the previous sanction of the Secretary of State or save under conditions prescribed by him. **185**

90. Conditions in regard to pensions and analogous rights will be regulated in accordance with the rules in force at the date of the Constitution Act, and the Secretary of State will have no power to make any amending rules varying any of these conditions so as to affect adversely the pension, &c., of any person appointed before the variation is made. An award of pension less than the maximum pension admissible will require the consent of the Secretary of State. The pensions of all persons appointed before the commencement of the Constitution Act will be exempt from Burma taxation if the pensioner is residing permanently outside Burma. The pensions of persons appointed by the Secretary of State or by the Crown after that date will also be exempt from Burma taxation if the pensioner is residing permanently outside Burma. **186**

91. The existing rule-making powers of the Secretary of State in Council will continue to be exercised by the Secretary of State in respect of persons appointed by the Secretary of State in Council or to be appointed by the Secretary of State until His Majesty by Order in Council made on an Address of both Houses **187**

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* See Introduction, paragraph 19.

of Parliament designates another authority for the purpose. Any rule made by the Secretary of State will require approval as specified in proposal 83, unless and until both Houses of Parliament by Resolution otherwise determine.

188 **92.** Provision will be made whereby any person appointed by the Crown who is or has been serving in Burma in a civil capacity and any person who, though not appointed by the Secretary of State in Council before the commencement of the Constitution Act or by the Secretary of State after its commencement, holds or has held a post borne on the cadre of the Indian Civil Service may be given such of the rights and conditions of service and employment of persons appointed by the Secretary of State in Council or by the Secretary of State, as the Secretary of State may decide to be applicable to his case.

189 **93.** A statement of the vacancies in, and the recruitment made to, the Services and Departments to which the Secretary of State will appoint after the commencement of the Constitution Act will be laid annually before both Houses of Parliament.

A statutory enquiry will be held into the question of future recruitment to the Services which will replace the Indian Civil Service and the Indian Police after a period to be determined.* The decision on the results of this enquiry, with which the Government of Burma will be associated, will rest with His Majesty's Government, and be subject to the approval of both Houses of Parliament.

(b) *Persons appointed or to be appointed otherwise than by the Secretary of State in Council or the Secretary of State.*

190 **94.** The Government of Burma will appoint and, subject to the following paragraphs, determine the conditions of service of all persons in the service of Government other than persons appointed by the Crown, by the Secretary of State in Council, by the Secretary of State, *or by the Governor in discharge of the responsibility imposed upon him under the proposals contained in paragraph* 10.

95. *Provision will be made for the compulsory transfer to the service of the Government of Burma of persons recruited by the Government of India*‡ *before the commencement of the Constitution Act for service in Burma alone.*

191 **96.** Every person in the service of the Government of Burma at the commencement of the Constitution Act, *and all persons in the service of the Government of India at the date of the commencement of the Burma Constitution Act and transferred thereafter to that of the Government of Burma*, will continue to enjoy all service rights they enjoyed at the date of such transfer. A summary of the principal existing rights is set out in Appendix I (Part II).

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* See paragraph 19 of Introduction.

‡ See paragraph 21 of Introduction.

NOTE.—*In the case of persons transferred from the service of the Government of India to that of the Government of Burma, appeals will in future lie only to the appropriate authority in Burma.*

97. No person appointed by an authority other than the Secretary of State in Council who was serving in Burma in a civil capacity before the commencement of the Constitution Act, *and no person in the service of the Government of India at the date of the commencement of that Act and transferred thereafter to service in Burma,* will have his conditions of service in respect of pay, allowances, pension or any other matter adversely affected, save by an authority in Burma competent to pass such an order on the 8th March 1926 or with the sanction of such authority as the Secretary of State may direct. **192**

98. No rule or order of the Government of Burma affecting emoluments, pensions, provident funds, or gratuities, and no order upon a memorial will be made or passed to the disadvantage of an officer appointed to a Central Service, Class I or Class II, or to a Burma Provincial Service, before the commencement of the Act, without the personal concurrence of the Governor. No post in a Service which replaces a Central Service, Class I or Class II, or in any Service replacing a Provincial Service shall be brought under reduction if such reduction would adversely affect any person who, at the commencement of the Constitution Act, was a member of those Services, without the sanction of the Governor or, in the case of any person appointed by the Crown or by the Secretary of State in Council, of the Secretary of State. **193**

99. Every person, whether appointed before or after the commencement of the Constitution Act, who is serving in a civil capacity in a whole-time permanent appointment, will be entitled to one appeal against any order of censure or punishment, or against any order affecting adversely any condition of service, pay, allowances, or pension, or any contract of service, other than an Order made by the Government in the case of officers serving under its control. **194**

(c) *Public Service Commission.*

100. There will be a Public Service Commission for Burma. **197**
The members of the Public Service Commission will be appointed by the Governor, who will also determine at his discretion their number, tenure of office, and conditions of service, including pay, allowances, and pensions, if any. The Chairman at the expiration of his term of office will be ineligible for further office under the Crown in Burma. The eligibility of the other members for further employment under the Crown in Burma will be subject to regulations made by the Governor.

198 **101.** The emoluments of the members of the Public Service Commission will not be subject to the vote of the Legislature.

199 **102.** The Public Service Commission will conduct all competitive examinations held in Burma for appointments to the Government service. The Government will be required to consult it on all matters relating to methods of recruitment, on appointments by selection, on promotions, and on transfers from one service to another, and the Commission will advise as to the suitability of candidates for such appointments, promotions or transfers.

200 **103.** The Government will also be required, subject to such exceptions (if any) as may be specified in regulations to be made by the Secretary of State or Governor, as the case may be, to consult the Public Service Commission in connection with all disciplinary orders (other than an order for suspension) affecting persons in the public services in cases which are submitted to the Government for orders in the exercise of its original or appellate powers; in connection with any claim by an officer that Government should bear the costs of his defence in legal proceedings against him in respect of acts done in his official capacity; *in connection with any claim by an officer that he has suffered loss of rights existing at the date of his transfer to service under the Burma Government;* and in connection with any other class of case specified by regulations made from time to time by the Secretary of State or Governor as the case may be. But no regulations made by the Governor will be able to confer powers on the Commission in relation to any person appointed by the Secretary of State without the assent of the Secretary of State.

201 **104.** The Government will be empowered to refer to the Commission for advice any case, petition, or memorial if they think fit to do so; and the Secretary of State will be empowered to refer to the Commission any matter relating to persons appointed by him on which he may desire to have the opinion of the Commission.

APPENDIX I.

(PART I.)

List of principal existing Rights of Officers appointed by the Secretary of State in Council.

NOTE.—In the case of sections the reference is to the Government of India Act, and in the case of rules to rules made under that Act.

1. Protection from dismissal by any authority subordinate to the appointing authority (Section 96B (1)).
2. Right to be heard in defence before an order of dismissal, removal or reduction is passed (Classification Rule 55).
3. Guarantee to persons appointed before the commencement of the Government of India Act, 1919, of existing and accruing rights or compensation in lieu thereof (Section 96B (2)).
4. Regulation of conditions of service, pay and allowances, including Burma allowance, and discipline and conduct, by the Secretary of State in Council (Section 96B (2)).
5. Power of the Secretary of State in Council to deal with any case in such manner as may appear to him to be just and equitable notwithstanding any rules made under Section 96B (Section 96B (5)).
6. Non-votability of salaries, pensions and payments on appeal (Sections 67A (3) (iii) and (iv) and 72D (3) (iv) and (v)).
7. The requirement that rules under Part VII–A of the Act shall only be made with the concurrence of the majority of votes of the Council of India (Section 96E).
8. Regulation of the right to pensions and scale and conditions of pensions in accordance with the rules in force at the time of the passing of the Government of India Act, 1919 (Section 96B (3)).
9. —(i) Reservation of certain posts to members of the Indian Civil Service (Section 98).

   (ii) Appointment of persons who are not members of the Indian Civil Service to offices reserved for members of that service only to be made subject to rules made by the Governor-General in Council with the approval of the Secretary of State in Council (Section 99), or in cases not covered by these rules to be provisional until approved by the Secretary of State in Council (Section 100).
10. Determination of strength (including number and character of posts) of All-India Services by the Secretary of State in Council, subject to temporary additions by the Governor-General in Council or Local Government (Classification Rules 24 and 10).
11. Provision that posts borne on the cadre of All-India Services shall not be left unfilled for more than three months without the sanction of the Secretary of State in Council (Classification Rule 25).
12. Appointment of anyone who is not a member of an All-India Service to posts borne on the cadre of such a Service only to be made with the sanction of the Secretary of State in Council, save as provided by any law or by rule or orders made by the Secretary of State in Council (Classification Rule 27).

13. Sanction of the Secretary of State in Council to the modification of the cadre of a Central Service, Class I, which would adversely affect any officer appointed by the Secretary of State in Council, to any increase in the number of posts in a Provincial Service which would adversely affect any person who was a member of a corresponding All-India Service on 9th March 1926, or to the creation of any Specialist Post which would adversely affect any member of an All-India Service, the Indian Ecclesiastical Establishment, and the Indian Political Department. (Provisos to Classification Rules 32, 40 and 42.)
14. Personal concurrence of the Governor required to any order affecting emoluments, or pension, any order of formal censure, or any order on a memorial to the disadvantage of an officer of an All-India Service (Devolution Rule 10).
15. Personal concurrence of the Governor required to an order of posting of an officer of an All-India Service (Devolution Rule 10).
16. Right of complaint to the Governor against any order of an official superior in a Governor's Province and direction to the Governor to examine the complaint and to take such action on it as may appear to him just and equitable (Section 96B (1)).
17. Right of appeal to the Secretary of State in Council, (i) from any order passed by any authority in India, of censure, withholding of increments or promotion, reduction, recovery from pay of loss caused by negligence or breach of orders, suspension, removal or dismissal, or (ii) from any order altering or interpreting to his disadvantage any rule or contract regulating conditions of service, pay, allowances or pension made by the Secretary of State in Council, and (iii) from any order terminating employment otherwise than on reaching the age of superannuation (Classification Rules 56, 57 and 58).
18. Right of certain officers to retire under the regulations for premature retirement.

(PART II.)

List of principal existing Rights of Persons appointed by Authority other than the Secretary of State in Council.

NOTE.—In the case of sections the reference is to the Government of India Act, and in the case of rules to rules made under that Act.

1. Protection from dismissal by any authority subordinate to the appointing authority (Section 96B (1)).
2. Right to be heard in defence before an order of dismissal, removal or reduction is passed, subject to certain exceptions (Classification Rule 55).
3. Regulation of the strength and conditions of service of the Central Services, class I and class II, by the Governor-General in Council and of Provincial Services by Local Government subject, in the case of the latter, to the provision that no reduction which adversely affects a person who was a member of the Service on the 9th March 1926 should be made without the previous sanction of the Governor-General in Council (Classification Rules 32, 33, 36, 37, 40 and 41).

4. Personal concurrence of the Governor required to any order affecting emoluments or pension, an order of formal censure, or an order on a memorial to the disadvantage of an officer of a Provincial Service (Devolution Rule 10).
5. Right of appeal from any order of censure, withholding of increments or promotion, reduction, recovery from pay of loss caused by negligence or breach of orders, suspension, removal or dismissal, and any order altering or interpreting to his disadvantage a rule or contract regulating conditions of service, pay, allowances or pension, and in the case of subordinate services the right of one appeal against an order imposing a penalty (Classification Rules 56, 57, 58 and 54).

(PART III.)

NON-VOTABLE SALARIES, &c. (CIVIL).

The salaries and pensions of the following classes of persons are non-votable:—

(*a*) persons appointed by or with the approval of His Majesty or by the Secretary of State in Council before the commencement of the Constitution Act or by a Secretary of State thereafter;

(*b*) persons appointed before the first day of April 1924, by the Governor-General in Council or by a Local Government to Services and posts classified as superior;

(*c*) holders in a substantive capacity of posts borne on the cadre of the Indian Civil Service;

(*d*) members of the Public Service Commission;

(*e*) holders in a substantive capacity before the commencement of the Constitution Act of posts in an Indian Central Service.

The following sums payable to such persons fall also under item (v) of paragraph 47, namely:—

Sums payable to, or to the dependants of, a person who is, or has been, in the service of the Crown in Burma under any Order made by the Secretary of State in Council, by a Secretary of State, by the Governor-General in Council, or by the Governor of Burma upon an appeal preferred to him in pursuance of Rules made under the Constitution Act.

For the purposes of the proposals in this Appendix the expression "salaries and pensions" will be defined as including remuneration, allowances, gratuities, contributions, whether by way of interest or otherwise, out of the revenues of Burma to any Provident Fund or Family Pension Fund, and any other payments or emoluments payable to, or on account of, a person in respect of his office.

APPENDIX II.

(See paragraph 18 of Introduction.)

PROVISIONAL LIST OF AREAS TO BE INCLUDED IN SCHEDULE A AND SCHEDULE B TO THE CONSTITUTION ACT.

Schedule A.

District		Area
1. Federated Shan States	...	Northern Shan States. Southern Shan States.
2. Arakan Hill Tracts	..	Arakan Hill Tracts (late Hill District of Arakan).
3. Chin Hills	...	Chin Hills (including the Pakôkku Hill Tracts).
4. Myitkyina	...	Myitkyina Kachin Hill Tracts. Mogaung Kachin Hill Tracts. Kamaing Kachin Hill Tracts. Sadôn Kachin Hill Tracts. Htawgaw Kachin Hill Tracts. Putao Sub-Division (late Putao District).
5. Bhamo	...	Sinlum Kachin Hill Tracts. Shwegu Kachin Hill Tracts.
6. Upper Chindwin ...	...	Somra Tract. Kanti State. Thaungdut State.
7. Katha	...	Katha Kachin Hill Tracts.

Schedule B.

1. Myitkyina	...	Other than the Hill Tracts specified in item 4 of Schedule A.
2. Bhamo	...	Exclusive of the Hill Tracts specified in item 5 of Schedule A.
3. Upper Chindwin ...	...	Homalin Sub-division and the Tamu Township of the Mawlaik.
4. Salween	...	

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RECORDS OF THE JOINT COMMITTEE ON INDIAN CONSTITUTIONAL REFORM

Die Lunae, 7° Augusti, 1933

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UNREVISED **5**

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of the Joint Committee on

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REPORT OF THE COMMITTEE ON INDIAN RESERVE BANK LEGISLATION.

MEMORANDUM BY THE SECRETARY OF STATE FOR INDIA.

The Federal Structure Sub-Committee of the First Round Table Conference recommended that, " with a view to ensuring confidence in the management of Indian credit and currency . . . efforts should be made to establish on sure foundations and free from any political influence, as early as may be found possible, a Reserve Bank, which will be entrusted with the management of the currency and exchange." In the course of the discussions of the Third Round Table Conference I undertook that representative Indian opinion would be consulted in the preparation of proposals for the establishment of the Reserve Bank, including those relating to the reserves. In accordance with this undertaking a Committee was appointed to advise the Government of India and myself on the subject of the required legislation.

The Committee, which sat in July, has now submitted its Report. The prime purpose of the Report is to facilitate the drafting of the Reserve Bank Bill which will, in all probability, be submitted to the Indian Legislature in the course of September, with a view to its possible passage into law later in the year.

I present the Report to the Committee because of its connection with the proposals relating to financial responsibility in the White paper (see paragraph 32 of the Introduction).

Report of the Committee on Indian Reserve Bank Legislation.

1. It was recommended by the Federal Structure Sub-Committee of the First Round Table Conference that, "with a view to ensuring confidence in the management of Indian credit and currency, . . . efforts should be made to establish on sure foundations and free from any political influence, as early as may be found possible, a Reserve Bank, which will be entrusted with the management of the currency and exchange."* The Financial Safeguards Committee of the Third Round Table Conference recommended "that steps should be taken to introduce into the Indian Legislature a Reserve Bank Bill conceived on the above lines as soon as possible."† In the Report of that Committee it was also placed on record that "The Secretary of State undertook that representative Indian opinion would be consulted in the preparation of proposals for the establishment of the Reserve Bank including those relating to the reserves." The present Committee has been set up in pursuance of that undertaking.

2. We understand that the Bill, when drafted, is to be placed before the present Indian Legislature with a view to its being brought into force before the expiry of the existing Constitution. The provisions of the Bill, therefore, will have to be designed to fit in with the existing Constitution, but in discussing them we have kept in view the conditions contemplated under the new Federal Constitution and endeavoured to frame proposals on lines which will require the minimum of adaptation to those conditions. A complication arises from the uncertain future of Burma. We have, however, assumed that Burma, if separated, will continue to utilise the Indian currency system, and that no material changes in the Reserve Bank Act will be required.

3. We fully accept the principle that the Reserve Bank should be free from any political influence. The best device which the practical experience of other countries has evolved for achieving this object is that the capital of the Bank should be held by private shareholders,‡ and we recommend that this plan should be adopted in the case of India.

4. In formulating a scheme for the constitution of the Board of Directors, we have borne in mind the importance of securing the

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* Second Report of the Federal Structure Sub-Committee, paragraph 18.

† Report of the Committee on Financial Safeguards, paragraph 4.

‡ Rai Bahadur Ram Saran Das records his view that the Bank should be State-owned.

representation of the economic life of India as a whole, while at the same time guarding against undue influence in the affairs of the Bank by sectional interests, acquired through the control of voting power. The proposals below are designed to fulfil these aims, but their efficacy will depend in the first place upon proper restriction of voting power. We propose that the denomination of the shares should be Rs. 500. On this basis we recommend that the minimum voting qualification should be two shares, which must have been held for at least six months, and that the maximum number of votes that may be exercised by any one shareholder should be ten. If such a limitation is imposed on voting power we do not think it necessary to place any restriction on the amount of capital to be held by any one shareholder. Such a restriction would place undesirable obstacles in the way of free marketing of the shares.

The Board of the Bank.

5. We consider that the Board should be as small as practicable. The majority of the Board of Directors should in our opinion derive their mandate from the shareholders. We do not recommend that any special provision should be made for the representation on the Board of commercial bodies as such. In view, however, of the fact that in the particular circumstances of India election may fail to secure the representation of some important elements in the economic life of the country, such as agricultural interests, we recommend that a minority of the Board should be nominated by the Governor-General in Council under the present Constitution and by the Governor-General at his discretion under the new Constitution, it being understood that this power would be exercised to redress any such deficiencies. We agree generally that the Board should be constituted as follows:—

8 Directors representing the shareholders;
4 Directors nominated by the Governor-General in Council;
1 Governor.
1 Deputy-Governor (or two, if two are appointed), with no voting power;*
1 officer of Government with no voting power.

We contemplate that the Governor would ordinarily attend all meetings of the Board, but if he is unable to do so on any particular occasion we consider that his vote should be exercised by a Deputy-Governor authorised by him to act as his substitute.

* Some members of the Committee think that the Deputy Governors should have full voting power.

6. The plan which we recommend for the appointment of Directors to represent the shareholders is set forth in the next paragraph. It involves the division of India (including for this purpose Burma) into five "areas"; the election, by the shareholders resident in each area, of members of a Local Board; and the selection by the latter, from among themselves, of Directors to represent the respective areas on the Central Board.

7. In Appendix II will be found, in tabular form, our proposals for the geographical division into areas, and for the allocation among them of seats on the Central Board, and the initial allocation of share capital. It is suggested that Bombay should be the headquarters for the Western area (two seats on the Central Board), Calcutta for the Eastern area (two seats), Delhi for the Northern area (two seats), Madras for the Southern area (one seat), and Rangoon for the Burma area (one seat). (The number of Local Boards for this purpose should not be capable of increase.) The electoral scheme in the 1928 Bill provided for the inclusion of all the Indian States in the "Delhi Area." We consider, however, that the States should for this purpose fall into their natural geographical divisions, and our proposals, shown in detail in Appendix II, have been made on this basis. We propose that five members should be elected to each Local Board by the shareholders "resident" in the area according to the definition given in clause 4 (4) of the 1928 Bill. The members so elected should appoint, from among themselves, the Director or Directors to represent the area on the Central Board. Provision should be made to enable a substitute Director to be appointed from and by a Local Board in case a Director representing it is unable to attend a particular meeting.

8. Clause 6 of the 1928 Bill provides for the opening of offices at the headquarters of the five areas which we propose. We observe that this clause as it stands would oblige the Bank to establish a branch in London. We understand that it is the recognised practice of Central Banks to conduct their operations in another country through the agency of the Central Bank of that country. We do not consider that the Board should be precluded by statute from following this practice. We therefore recommend that the words "and London" should be omitted from clause 6, the effect of which will be to make the establishment of a London branch optional. Should the Bank arrange to employ the Bank of England as its agent in London, we contemplate that the arrangement would be reciprocal and that the Bank of England would employ the Reserve Bank as its agent in India.

9. Apart from their functions in the machinery by which Directors are appointed, the Local Boards would have no

executive duties, except such as may be delegated to them by the Central Board. Otherwise they would be purely advisory bodies. In particular, they might play a valuable part in the scrutiny of commercial paper, analogous to the functions of the discount committees established in Belgium, Bulgaria, Japan and Lithuania. With a view to ensuring that all appropriate interests, agriculture and the Indian States in particular, are adequately represented, the Central Board should be empowered to nominate to each Local Board not more than three additional members. These additional members should be full members of the Local Board, except that they should not be eligible to be returned as representatives of the area on the Central Board, nor to take part in the selection of such representatives.

10. As regards the qualification of elected Directors, we consider a provision on the lines of sub-clause 2 of clause 11 of the Bill of 1928 to be desirable. We would also provide that within six months of their appointment to the Central Board the four nominated Directors must become possessed of the same share qualification as is prescribed for Directors elected by the shareholders. We do not, of course, suggest that a share qualification must be acquired by the Governor, the Deputy Governor or Governors, or the Government officer. We accept the disqualifications set out in clause 8 of the 1928 Bill, to which, however, we would add "Insolvency." We have considered whether the disqualification of Government officials should apply also to officials of Indian States. We are all agreed that, so far as elected members of Central or Local Boards are concerned, this disqualification should apply, but as regards nominated directors, either on the Central or Local Boards, the Indian States representatives have pressed that an exception should be made. Recognising that there might on occasions be practical difficulties in finding suitable non-official representatives of the Indian States, a majority of the Committee are prepared to recommend an exception in this case, provided that it shall not apply to officials of the Government of India lent to an Indian State.

11. The qualifications and disqualifications applicable to members of a Local Board, whether elected or nominated, should, subject to what is said in paragraph 10 above, be the same as those applicable to the elected members of the Central Board.

12. We recommend, in order that the Reserve Bank may be able to commence operations, that the first appointment of Directors should be made by the Governor-General in Council, suitable arrangements being made for retirement in rotation.

13. The method of appointing the Governor is a matter of the highest importance. It is essential that this officer should command general confidence, both in India and abroad. As regards the appointment of the Governor and Deputy Governor (or Deputy Governors), the majority of the Committee hold that the Governor-General in his discretion should be the appointing authority when the new Constitution comes into force. Those who were of this opinion felt no doubt that before making these appointments the Governor-General would ascertain the views of the Board of the Bank. A minority of the Committee however, hold that these appointments should be made by the Board of Directors, subject to the approval of the Governor-General. An attempt to harmonise these views was made by proposing that the existing provision of the Imperial Bank constitution should be followed in drafting the Bill, and that the Governor and Deputy Governors should be appointed by the Governor-General after consideration of the recommendations of the Board of the Bank. This solution, as a compromise, was acceptable to all members of the Committee except four.

Share Capital and Share Registers.

14. We recommend that the original share capital of the Bank should be Rs. 5 crores, divided into shares of Rs. 500 each, which should be fully paid; that the initial allocation as between the five areas should be on the lines indicated in Appendix II; that a separate share register should be maintained in each of the five areas; and that shares should be transferable from one register to another, so that there would be a free market in them, but shareholders should only be entitled to vote in respect of the areas in which they are resident.

Structure of the Bank.

15. The two previous Bills provided for separate Issue and Banking Departments as in the case of the Bank of England, and we understand that this provision has met with general approval in India. We recommend that the new Bill should be drafted on this basis.

Business of the Bank.

16. We approve generally of the provisions of clauses 17 and 18 of the Bill of 1928, but we consider that some extension may be required to enable the Indian States to participate in the Reserve Bank Scheme, and detailed suggestions of this nature are included in Appendix I.

17. The Banking Enquiry Committee recommended* that additional provision should be made enabling the Bank to make loans and advances on the security of moveable goods, wares, and merchandise, as well as against the warehouse warrants and warehouse receipts representing such goods. We do not feel able to recommend any such provision, since it would tend to render the Bank's resources less liquid, and might involve it in undesirable competition with commercial banks.

18. An important question arises in regard to clause 18. Since the Hilton Young Commission reported and the previous Bills were drafted, Central Banking practice in other countries has developed in the direction of utilising open market operations to an increasing extent for the purpose of regulating credit. Clause 18 as it stands might be read as necessitating a meeting of the Board on each occasion on which such operations are required. Since action may be necessitated, for the purpose of regulating credit, with a degree of urgency which does not permit prior consultation with the Board, it should be made clear that the Board is not precluded from delegating to the Governor powers in this behalf for the above-mentioned purpose.

Exchange Obligations of the Bank.

19. The questions which arise in connection with the exchange obligations to be imposed on the Bank present special difficulty in existing circumstances. In the prevalent state of monetary disorganisation throughout the world, it is impossible to incorporate in the Bill provisions which would necessarily be suitable when monetary systems generally have been re-cast and stabilised. In these circumstances we consider that the only sound course for India is to remain on the sterling standard. On this basis the exchange obligations incorporated in the Bill must necessarily be in accord with the rupee-sterling ratio existing at the time when the Bill is introduced. This statement does not, however, imply any expression of opinion on the part of the Committee on the merits or demerits of the present ratio. The ratio provisions in the Bill are designed to make it clear that there will not be any change in the *de facto* situation by the mere coming into operation of the Reserve Bank Act.

A considerable majority of the Indian Delegates feel it their duty to record their view that a suitable exchange ratio is one of the essential factors for the successful working of the Reserve Bank. They point out that considerable changes have occurred in the currency bases and policies of almost all the countries of the world

* Report of the Indian Central Banking Enquiry Committee of 1931, paragraph 607.

in the last few years. In their view it is for the Government of India and the Legislature to examine these and all other relevant considerations with a view to ensuring that the minimum possible strain is placed on the currency system of India.

We are all agreed that it should, in any case, be made clear in the Preamble that the whole question of the monetary standard best suited to India will have to be reviewed when the international monetary position has clarified itself and become sufficiently stable to make it possible to frame more permanent provisions.

20. It will be necessary in the Bill to provide limits to the range of exchange fluctuations by prescribing upper and lower points at which the Bank will be required to buy and sell on demand sterling for immediate delivery. According to the practice now prevailing upper and lower points have in fact been retained as though the rupee was still on a gold basis. As the fixing of new points would in any case have to be on an arbitrary basis we recommend that this practice, to which the public have become accustomed, should be continued.

Assets and Liabilities of the Issue Department.

21. The addition of 40 crores to the liabilities of the Issue Department for the purpose of providing for rupee redemption requires reconsideration in view of the large return of rupees from circulation since the Hilton Young Commission reported and the indications as to the probable trend of the movement of rupees in and out of circulation in the future. We recommend that, as the future return of rupees over a series of years is likely to be considerably less than in the past few years, the rupee redemption fund should be dispensed with and in its place the following scheme should be adopted:—

(1) The amount of rupees transferred at the outset to the Bank should not exceed Rs. 50 crores.

(2) Any surplus of rupees which this arrangement would enable Government to remove from the reserve should be held by Government in a separate account, the silver being held as bullion, not as coin. Subject to further consideration by the Government of India any proceeds from the realisation* of such rupees should not be used, except for the purpose specified in (3) below.

* Some of us wish to make it clear that in accepting this scheme we do not wish to be regarded as endorsing any policy of selling silver.

(3) In any year in which the minimum holding of silver rupees by the Bank exceeded 50 crores of rupees or one-tenth of the total amount of the reserve, the Bank would have the right to make over the surplus to Government to an amount not exceeding 5 crores of rupees in any year, and Government would be required to pay full value for these (to the extent of 40 per cent. in sterling or other external assets acceptable to the Bank if the Bank so required, and if the Bank's external assets at the time did not exceed 50 per cent. of its total reserve).

(4) If in any year the Bank's maximum holding fell below the amounts indicated above, Government would similarly have the right to sell rupees to the Bank up to a maximum of 5 crores in any one year.

We observe in this connection that the omission of any provision for a specific rupee redemption fund makes it all the more necessary that the reserves of the Bank should at the outset provide an ample margin over the statutory amount. Under the proviso to clause 33 of the 1928 Bill, the initial proportion of gold and sterling assets must be not less than one-half of the liabilities of the Issue Department. We do not propose any alteration in this figure in the new Bill, but we think that this proportion may not necessarily be adequate, and we recommend that the question whether a higher proportion is required at the outset should, before the Bank is set up, be carefully considered by Government in the light of all the prevailing circumstances.

22. As regards the holding of Government of India rupee securities, the question was raised whether the limits proposed in the second proviso of clause 31 (3) might not prove unduly restrictive of the Bank's open market operations; and we recommend that this point should be further considered in India.

23. With regard to the remainder of the reserve, we recommend that "Gold Securities" should be replaced by "Sterling Securities." The holding of gold securities would be not merely inappropriate to a sterling standard, but, in the present state of uncertainty, a possible source of weakness. As regards the aggregate proportion of gold coin or bullion and sterling securities to be held, we recommend that the minimum figure of 40 per cent. proposed by the Hilton Young Commission and adopted in the previous Bills should be retained.

24. As regards the distribution of this minimum between sterling and gold various considerations have to be taken into account. On the one hand it must be recognised that the Bank will always require to hold a substantial amount of sterling in

order to enable it to fulfil its sterling obligations. Indeed it might be argued that so long as the rupee is not based on a gold standard there is no logical necessity to prescribe a minimum holding of gold and that any such limitation would restrict the freedom of the Bank's operations and would, to that extent, be a source of weakness in relation to its obligations to maintain the currency standard. There is, moreover, a further argument that as gold carries no interest any undue proportion of gold holdings would unjustifiably reduce the Bank's profits and so impose, indirectly, an unnecessary burden on the Indian taxpayer. As against these considerations, must be weighed the deep and widespread feeling in India in favour of holding gold as affording ultimately the most reliable form of reserve, a feeling which may necessitate some provision for a minimum gold holding in order to secure the confidence of the Indian public in the stability of the Bank. While individual members of our Committee have been inclined to attach varying degrees of importance to these different considerations we have been able to reach agreement on a recommendation that the Bill should prescribe a minimum gold holding of Rs. 35 crores.*

The minimum of Rs. 35 crores represents actually about 20 per cent. of the present note liability. Should, however, through any considerable expansion of the note issue, this percentage fall below 15 per cent., some members of the Committee are of opinion that the position should be immediately reviewed.

25. The question of valuation of the gold assets presents some difficulty. At a time when monetary standards are completely disorganised, there is, in fact, no logical figure applicable to the valuation of gold reserves. We consider that the best course would be to retain the valuation laid down in sub-clause (4) of clause 31. This would be in accordance with the practice at present followed by the Bank of England and in India, where gold continues to be valued at the old parity. Under this arrangement the existing holdings would be covered against loss by a wide margin. The possibility would obviously be present that the Bank might gain a large premium on the gold handed over to it by Government. The question as to how such premium should be dealt with, especially in the event of sales being made in the intermediate period pending revaluation of the gold, raises complex practical issues which we have not fully discussed. In

* Sir Purshotamdas Thakurdas and Rai Bahadur Ram Saran Das dissent from the proposal to omit any provision for a minimum percentage of gold to the note issue.

Sir Campbell Rhodes would prescribe no minimum but leave the Board complete freedom in the matter of gold reserves.

principle such profits should belong rather to the Government than to the Bank, but our view is that this unrealised margin should in some way or other be kept available for strengthening the position of the currency reserves. We recommend that detailed proposals should be worked out by the Government of India for consideration during the passage of legislationon this subject.

26. We approve generally of the provisions of clause 41 of the 1928 Bill, relating to the suspension of reserve requirements and the connected tax provision. We* think it would be well to bring clause 41 into a closer connection with clause 31 in order to make it clear that the "minimum" reserve can, and should, be utilised whenever this is called for by the circumstances.

Reserve Fund and Allocation of Surplus.

27. We approve, generally, the provisions for "Reserve Fund and Allocation of Surplus" in clause 46 of the 1928 Bill, subject to the following modifications in regard to the distribution of dividends. The appropriate rate for the fixed dividend must depend to some extent on the return on comparable securities at the time of issue of the shares. We recommend that the Bill should empower the Governor-General in Council to fix this rate, subject to a maximum of 5 per cent. Provision should also be made, on the lines of the Third Schedule to the 1928 Bill, for a gradually increasing dividend up to a maximum of 6 per cent. In determining the fixed rate of dividend the Governor-General in Council should take into account, not only the yield on Government long-term securities, but also the desirability of attracting the small investor in the mofussil and thereby securing a wide distribution of the shares.

Scheduled Banks.

28. We approve the principle of clause 44 of the 1928 Bill, under which Scheduled Banks are required to maintain minimum balances with the Reserve Bank. Some doubts have been expressed as to the appropriateness of (*a*) the criterion for inclusion in the schedule, viz. Rs. 3 lakhs paid-up capital and reserves; and (*b*) the percentages prescribed in sub-clause (1) of that clause. We recommend that these two questions should be reconsidered in India together with the question whether the criterion should be based on the amount of deposits rather than on the paid-up capital and reserves.

* Except Sir Purshotamdas Thakurdas and Rai Bahadur Ram Saran Das.

*Relations of the Reserve Bank with the Imperial Bank of India.**

29. We recommend that the Reserve Bank should be required to enter into an agreement with the Imperial Bank on the general lines of clause 45 of the 1928 Bill, but we consider that the period of 25 years prescribed in that clause is too long, and we suggest that this point should be further considered by the Government of India. The initial period, however, should be of substantial duration, with provision thereafter for termination on several years' notice given by either side. The agreement should further contain a stipulation that its continuance is dependent on the maintenance of a sound financial position by the Imperial Bank.

30. With regard to the Second Schedule to the 1928 Bill, we approve of the provision that the Imperial Bank should be the sole agent of the Reserve Bank at all places in British India where there is a branch of the Imperial Bank of India and no branch of the Banking Department of the Reserve Bank. It should be understood that this only applies to branches that are in existence at the time when the Act comes into force. We also agree that the Imperial Bank shall not, without the approval of the Reserve Bank, open any branch in substitution for a branch existing at the time when the agreement comes into force. As regards other branches that may be opened in the future, the Reserve Bank should be under no obligation to employ the Imperial Bank and should be free to make its own arrangements. The agency terms provided for in paragraphs 2 and 3 of Schedule II will require reconsideration in the light of present circumstances, and we recommend that the Government of India should frame revised terms in consultation with the Imperial Bank.

31. It was submitted to us that, apart from the question of remuneration for services to be rendered, the Imperial Bank of India has a moral claim for compensation in respect of its disappointed expectations and of commitments which it undertook, by arrangement with Government, before the institution of the Reserve Bank was contemplated. It was suggested to us that such compensation should be given in the form of an allotment of

* Owing to their connection with the Imperial Bank, Sir Edward Benthall and Sir Purshotamdas Thakurdas took no part in the discussion of this question.

Sir Akbar Hydari also desired to have his view recorded that the objects for which the early establishment of the Reserve Bank had been found necessary would be much more speedily attained, at the outset at least, if the Imperial Bank of India was, with suitable modifications, made the instrument for attaining these objects, rather than by the creation forthwith of an entirely new institution.

a part of the share capital of the Reserve Bank to shareholders of the Imperial Bank. We do not consider that the question whether the Imperial Bank is entitled to compensation is within the purview of this Committee, but, in any case, we cannot recommend any special allocation of Reserve Bank shares to the shareholders of the Imperial Bank, as this would be inconsistent with our scheme for the distribution of shares on the broadest possible basis throughout India. We have no doubt, however, that any claim for compensation which may be put forward by the Imperial Bank will receive due consideration by the authorities in India. If the claim is conceded we consider that the compensation should be given in some other form.

General.

32. The Committee considered whether the powers to be given to the Governor-General in Council in various clauses of the Bill should, under the new Federal Constitution, be exercised by the Governor-General at his discretion or by the Governor-General on the advice of his Ministers. In agreeing to the recommendations recorded below, some of the members took into account the powers which they assume the Governor-General will possess under the new Constitution Act to intervene if on any occasion his special responsibilities are involved.

In clause 41 of the 1928 Bill (Suspension of Reserves) no agreement was reached between the three alternatives of the exercise of these powers—

(*a*) by the Governor-General at his discretion;
(*b*) by the Federal Government; or
(*c*) by the Federal Government with the approval of the Governor-General at his discretion.

In clauses 43 and 52 of the 1928 Bill (Forfeiture of Right of Note Issue and Liquidation) it was agreed that the powers should be exercised by the Federal Government with the approval of the Governor-General at his discretion.

In clause 53 (Regulations) it was agreed that the power should be exercised by the Federal Government.

33. In the preceding paragraphs we have dealt with all the major questions in respect of which we recommend any departure from the provisions of the 1928 Bill. In other respects we recommend that the principles of that Bill should be followed in drafting the new Reserve Bank Bill. There are, however, a number of minor points on which we recommend modification of the provisions of the 1928 Bill, either as being consequential on our major recommendations or desirable on other grounds.

These suggestions are set forth in Appendix I, and for convenience of reference we annex to our Report a copy of the 1928 Bill.

34. In conclusion we desire to express our obligation to our Secretaries, Mr. G. H. Baxter and Mr. A. T. Williams and other members of the staff concerned for the invaluable assistance which they have rendered both in our proceedings and in the drafting of our Report.

R. A. MANT,
Deputy Chairman.

N. N. ANKLESARIA.
E. C. BENTHALL.
C. C. BISWAS.
RAM SARAN DAS.
H. DENNING.
A. HYDARI.
MIRZA M. ISMAIL.
COWASJEE JEHANGIR (jun.).
L. J. KERSHAW.
C. KISCH.
V. T. KRISHNAMA CHARI.
H. P. MODY.
A. RAMASWAMI MUDALIAR.*
CAMPBELL RHODES.
GEORGE SCHUSTER.
PHIORZE SETHNA.
H. STRAKOSCH.
PURSHOTAMDAS THAKURDAS.
S. D. WALEY.
MOHD. YAMIN KHAN.
ZAFRULLA KHAN.

G. H. BAXTER,
A. T. WILLIAMS,
Secretaries.

* Mr. Ramaswami Mudaliar has signed on behalf of Mr. Iyengar in regard to all matters on which agreement was reached before Mr. Iyengar left for India. In regard to other matters, Mr. Iyengar has reserved the right to record a supplementary note if he finds this necessary.

INDIA OFFICE,
1st August 1933.

APPENDIX 1.

(*See paragraph* 33 *of Report.*)

Title and Preamble.—The reference to " Gold Standard Currency " will require amendment.

Clause 1 (1).—This clause will need to be similarly amended.

Clause 1 (2).—We have assumed that Burma, if separated, will continue to utilise the Indian currency system. If the decision ultimately reached is otherwise, an amendment of this sub-clause will be necessary.

Clause 1 (3).—A modification of dates will be necessary.

Clause 1 (4).—We recommend that this sub-clause should provide that Chapter III shall be in force for a period of 25 years, and shall continue in force thereafter until revoked or modified by further legislation.

Clause 2 (*g*).—The definition of a "gold standard country" will have to be replaced by that of a "sterling standard country."

Clause 4 (8).—The scheme of allotment should be modified so as to provide for preferential allotment to the extent of two shares (the suggested minimum qualification for a vote) being given to applicants for two shares and over. A specific provision should also be made excluding Government from voting power in respect of any capital left in its hands.

Clause 8 (1) (*a*) (i).—We would amend this to read :—

> " engaged in the direction of agricultural, commercial, financial or industrial activities, or "

Clause 11 (1).—Elected Directors should be removable by the Governor-General in Council on a resolution passed by the Board by a majority consisting of not less than nine Directors. Other members of the Board should be removable by the authority which nominated or appointed them.

Clause 13.—Election rules should be drawn up by the Bank in the manner provided for in clause 53.

Clause 15 (1).—Provision will be necessary for calling local meetings to elect the Local Boards.

Clause 15 (2).—Bearing in mind the widespread practice of blank transfers in India we consider that members of Local Boards might be empowered to call upon any registered and resident shareholder to make a statutory declaration to the effect that he is the actual owner of the shares registered in his name.

Clause 17 (1).—Provision should be made to enable the Bank to act as Bankers for Indian States.

Clause 17 (2) (*c*).—We would add after the words " Local Government " the words " or such securities of an Indian State as may be specified in that behalf by the Governor-General in Council on the recommendation of the Central Board of the Reserve Bank."

Clause 17 (3).—The reference to " Gold standard countries " should be changed to " Sterling standard countries."

Clause 17 (7) *and* (8).—It has been suggested that in present conditions these subsections are unduly restrictive as regards the maturities of Government securities in which the Bank is permitted to deal. We recommend that this point should be further examined by the Government of India. An amendment similar to that already suggested above to subclause 17 (2) (c) might also be made to subclause 8.

Clause 17 (11).—The words "or Indian State" might be added after the words "Local Government" to admit of the Bank acting as agent for the Indian States.

Clause 17 (14).—We consider that external borrowing should be expressly confined to other Central Banks, and that in that event no limitation need be placed on the amount which it is permissible to borrow externally.

Clause 17 (16).—We would redraft this sub-clause as follows:—

> "Generally, the doing of all such matters and things as may be incidental to, or consequential upon, the provisions of this Act and not prohibited by this Act."

Clause 18.—We would substitute for the words "in the interests of Indian trade or commerce, or for the purpose of enabling the Bank to perform any of its functions under this Act," the words "for the purpose of regulating credit in the interests of Indian trade, commerce, industry and agriculture."

A further amendment of this clause has been recommended in paragraph 18 of our Report.

Clause 31.—Here, and in other clauses where it is referred to, the provision for "gold securities" should be replaced by "sterling securities."

Clause 31 (3).—It is for consideration whether it should not be made clear that the "Government of India rupee securities" must be marketable securities.

Clause 31 (6).—This sub-clause will require amendment in view of the adoption of a sterling standard.

Clauses 32–37 will require modification in the light of our proposal for the omission of provision for a specific rupee redemption fund.

Clauses 38–40.—These clauses will require to be replaced by provisions on the lines indicated in paragraphs 19 and 20 of our Report.

Clause 53.—Amendments and additions will be required in consequence of certain of our recommendations.

APPENDIX II.

Suggestions for Distribution of Local Areas and Allocation of Shares.

(See paragraph 7 of Report.)

Area (1)	Head-quarters (2)	Extent (3)	Number of Directors (4)	Allocation of Share Capital Rs. lakhs (5)
1. NORTHERN	Delhi	United Provinces Punjab North-West Frontier Province Baluchistan Ajmer Merwara Rajputana Agency Punjab States Kashmir United Provinces States Gwalior	2	80
2. WESTERN	Bombay	Bombay Presidency Sind Central Provinces and Berar Western India Agency Baroda Hyderabad Central India Agency (excluding Bundel-khand and Baghel-khand) Gujerat States Agency Deccan States Agency	2	165
3. EASTERN -	Calcutta	Bengal Bihar and Orissa Assam Sikkim Assam States Bengal States Eastern States Agency Bundelkhand and Baghelkhand	2	165
4. SOUTHERN	Madras	Madras Presidency Coorg Mysore Madras States	1	50
5. BURMA -	Rangoon	Burma Andamans and Nicobars	1	40

ANNEXURE.

THE GOLD STANDARD AND RESERVE BANK OF INDIA BILL, 1928.

(As published.)

A Bill to establish a gold standard currency for British India and constitute a Reserve Bank of India.

Whereas it is expedient to provide for the establishment of a gold standard currency for British India; to constitute a Reserve Bank of India to control the working of that standard and regulate the issue of bank notes and the keeping of reserves with a view to securing stability in the monetary sytem of British India; and generally to make provisions for matters incidental thereto; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1.—(1) This Act may be called the Gold Standard and Reserve Bank of India Act, 1928.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) This section shall come into force at once, and the remaining provisions of this Act shall come into force on such date or dates, not later than the 1st day of July, 1929, as the Governor-General in Council may, by notification in the Gazette of India, appoint:

Provided that the Governor-General in Council may, by notification in the Gazette of India stating his reasons for such action, substitute for the year 1929 in this section the year 1930; and may, by like notifications, make two further successive substitutions of the years 1931 and 1932.

(4) Chapter III shall be in force for a period of twenty-five years and its operation may thereafter be extended for such further period or periods as the Governor-General in Council may, by notification in the Gazette of India, direct.

2. In this Act, unless there is anything repugnant in the subject or context—

(*a*) "the Bank" means the Reserve Bank of India constituted by this Act;

(*b*) "the Banking Department" means and includes all departments of the Bank other than the Issue Department;

(*c*) "bank rate" means the rate published by the Bank under section 47;

(*d*) "bank note" means paper money issued by the Bank;

(*e*) "the Board" means the Board of Directors constituted in accordance with section 9;

(*f*) "general meeting" means a meeting of the registered shareholders of the Bank;

(*g*) "gold standard country" means any country, other than British India, from which any person is at liberty to export gold and in which any person may obtain gold on demand from the principal currency authority on payment of the equivalent thereof, as prescribed by law, in legal tender currency;

(*h*) " Issue Department " means that department of the Bank which is charged by section 23 with the conduct and management of the note issue;

(*i*) " provincial co-operative bank " means any society which is registered or deemed to be registered under the Co-operative Societies Act, 1912, or any other law for the time being in force in British India relating to co-operative societies and the sole business and object of which is the financing of the other societies in a province which are or are deemed to be so registered;

(*j*) " the Reserve " means the assets of the Issue Department as specified in section 31;

(*k*) " the Reserve Fund " means the Reserve referred to in section 46;

(*l*) " rupee coin " means silver rupees which are legal tender under the provisions of the Indian Coinage Act, 1906; and

(*m*) " scheduled bank " means a bank included in the First Schedule.

CHAPTER II.

INCORPORATION, SHARE CAPITAL, MANAGEMENT AND BUSINESS.

Establishment and Incorporation of the Reserve Bank of India.

3.—(1) A Bank to be called the Reserve Bank of India shall be constituted for the purpose of taking over the management of the currency from the Governor-General in Council and of carrying on the business of banking in accordance with the provisions of this Act.

(2) The Bank shall be a body corporate by the name of the Reserve Bank of India, having perpetual succession and a common seal, and shall by the said name sue and be sued.

Share Capital.

4.—(1) The original share capital of the Bank shall be five crores of rupees divided into shares of one hundred rupees each, which shall be fully paid up.

(2) No amount in excess of twenty thousand rupees shall be issued to any one person or to any two or more persons jointly, and no person shall be allowed to acquire an interest in the share capital of the Bank, whether held in his own right, or held jointly with others, or held partly in his own right and partly jointly with others, to a nominal value in excess of twenty thousand rupees.

(3) Separate registers of shareholders shall be maintained at Bombay, Calcutta, Madras, Rangoon and Delhi, and a separate issue of shares shall be made in each of the areas served by those registers, as, hereinafter defined, and shares shall not be transferable from one register to another save in accordance with conditions to be prescribed by the Governor-General in Council.

(4) A shareholder shall be qualified to be registered as such in any area in which he is ordinarily resident or has his principal place of business in India, but no person shall be registered as a shareholder in more than one register or as a holder of an interest in the share capital of a total nominal value exceeding twenty thousand rupees; and no person who is not—

(a) domiciled in India, or

(*b*) a British subject ordinarily resident in India, or

(*c*) a company registered under the Indian Companies Act, 1913, or a society registered under the Co-operative Societies Act, 1912, or a scheduled bank, or a corporation or company incorporated by or under an Act of Parliament or any law for the time being in force in any of His Majesty's dominions and having a branch in British India,

shall be registered as a shareholder or be entitled to payment of any dividend on any share.

(5) The Board may, at its discretion, without giving any reason, decline to allot shares to any applicant or to register any transfer of shares.

(6) The areas served by the various registers mentioned in subsection (3) shall be as follows, namely:—

(*a*) by the Bombay register—the Presidency of Bombay (including Sind), and the Central Provinces;

(*b*) by the Calcutta register—the Presidency of Bengal and the Provinces of Bihar and Orissa and Assam;

(*c*) by the Madras register—the Presidency of Madras and the Province of Coorg;

(*d*) by the Rangoon register—the Province of Burma, and the Andaman and Nicobar Islands;

(*e*) by the Delhi register—the remainder of India, including the territories of Indian Princes and Rulers in India.

(7) The nominal value of the shares originally assigned to the various registers shall be as follows, namely:—

(*a*) to the Bombay register—one hundred and fifty lakhs of rupees;

(*b*) to the Calcutta register—one hundred and fifty lakhs of rupees;

(*c*) to the Madras register—forty lakhs of rupees;

(*d*) to the Rangoon register—forty lakhs of rupees;

(*e*) to the Delhi register—one hundred and twenty lakhs of rupees:

Provided that, in the event of the shares assigned to any register not being fully taken up at the first allotment, the Board may, with the previous sanction of the Governor-General in Council, transfer a portion of such shares from that register to another.

(8) In allotting the shares assigned to a register, the Board shall, in the first instance, allot one share to each applicant qualified under subsection (4) to be registered as a shareholder on that register; and, if the number of such applicants is greater than the total number of shares assigned to the register, shall determine by lot the applicants to whom the shares shall be allotted.

If the number of applicants is less than the number of shares assigned to the register, the Board shall allot the remaining shares to applicants who have applied for more shares than one; and if the number of extra shares so applied for exceeds the number of shares so to be allotted, the Board shall allot them among the various applicants in such manner as it may deem fair and equitable:

Provided that such allotments shall in all cases be subject to the restrictions contained in subsection (2).

If, after all applications have been met in accordance with the provisions of this subsection, any shares remain unallotted, they shall, notwithstanding anything contained in this section, be allotted to Government, and shall be sold by the Governor-General in Council, at not less than par, as soon as may be.

5.—(1) The share capital of the Bank may be increased by the Board with the previous sanction of the Governor-General in Council.

(2) Every such increase shall be fully paid up, and the areas to which such further shares shall be allotted and the price at which they may be issued shall be fixed by the Board with the like sanction.

(3) The Board may determine the manner in which any increase of share capital shall be effected.

(4) The share capital of the Bank may be reduced by the Board, with the previous sanction of the Governor-General in Council, to such extent and in such manner as may be determined by the Bank in general meeting.

Offices and Branches.

6. The Head Office of the Bank shall be established in Bombay, and the Bank shall, as soon as may be, eestablish branches in Calcutta, Madras, Rangoon, Delhi and London, and may establish branches or agencies in any other place in India or, with the previous sanction of the Governor-General in Council, elsewhere.

Management of the Bank.

7. The general superintendence of the affairs and business of the Bank shall be entrusted to a Board of Directors, which may exercise all powers and do all such acts and things as may be exercised or done by the Bank and are not by this Act expressly directed or required to be done by the Bank in general meeting.

8.—(1) Save as expressly provided in this Act—

(*a*) no person may be a Director who is not or has not at some time been—

(i) actively engaged in agriculture, commerce, finance or industry, or

(ii) a director of any company as defined in clause (2) of section 2 of the Indian Companies Act, 1913, or of a corporation or company incorporated by or under any law for the time being in force in any place outside British India; and

(*b*) no person may be a Director who is—

(i) a government official, or

(ii) an officer or employee of any bank, or

(iii) a director of any bank, other than a registered society as defined in clause (*e*) of section 2 of the Co-operative Societies Act, 1912.

(2) The election or appointment as Director of any person who is a member of the Indian Legislature or of a local Legislature shall be void, unless within one month of the date of his election or appointment he ceases to be such member, and if any Director is elected or nominated as member of any such Legislature he shall cease to be a Director as from the date of such election or nomination, as the case may be.

9.—(1) The Board shall consist of the following Directors, namely:—

(*a*) a Governor and two Deputy Governors to be appointed by the Governor-General in Council after consideration of any recommendation made by the Board in that behalf;

(*b*) four Directors to be nominated by the Governor-General in Council;

(*c*) two Directors to be elected by the Associated Chambers of Commerce;

(*d*) two Directors to be elected by the Federation of the Indian Chambers of Commerce;

(*e*) one Director, representing the interests of agriculture, to be elected by provincial co-operative banks holding shares to the nominal value of not less than five thousand rupees;

(*f*) eleven Directors to be elected on behalf of the shareholders on the various registers, in the manner provided in section 10 and in the following numbers, namely:—

(i) for the Bombay register—three Directors;
(ii) for the Calcutta register—three Directors;
(iii) for the Madras register—one Director;
(iv) for the Rangoon register—one Director;
(v) for the Delhi register—three Directors; and

(*g*) one government official to be nominated by the Governor-General in Council.

(2) The Governor and Deputy Governors shall devote their whole time to the affairs of the Bank, and shall receive such salaries and allowances as may be determined by the Board subject to any minimum prescribed by the Governor-General in Council.

(3) The Governor, a Deputy Governor and a Director nominated or elected under clause (*b*), (*c*), (*d*), (*e*) or (*f*) shall hold office for five years, or thereafter until his successor shall have been duly appointed, nominated or elected, and, subject to the provisions of section 8, shall be eligible for re-appointment, re-nomination or re-election as the case may be.

The Director nominated under clause (*g*) shall hold office during the pleasure of the Governor-General in Council. He may attend any meeting of the Board and take part in its deliberations, but shall not be entitled to vote.

(4) No act or proceeding of the Board shal be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board.

10.—(1) The shareholders registered on the various registers shall elect delegates for the purpose of electing Directors to represent them on the Board, and the numbers of delegates shall be as follows, namely:—

(*a*) for the Bombay register—twenty-four members;
(*b*) for the Calcutta register—twenty-four members;
(*c*) for the Madras register—ten members;
(*d*) for the Rangoon register—ten members;
(*e*) for the Delhi register—twenty-four members.

(2) Every shareholder who has been registered on a register for not less than six months immediately preceding the election shall be entitled to vote at the election of delegates for the shareholders on that register; and no shareholder shall have more than one vote.

(3) The delegates for the shareholders on a register shall be elected from among those who are shown on that register as having held, for a period of not less than six months immediately preceding the election, unencumbered shares of the Bank of a nominal value of not less than five thousand rupees:

Provided that no person shall be elected as a delegate who is a government official or an officer or servant of the Bank:

Provided further that no candidate may stand for election, unless he has been nominated by not less than twenty of the shareholders entitled to vote at the election.

(4) The election of delegates for the shareholders on a register shall be held once in every five years, at a convenient time before the expiry of the term of office of the retiring Directors for the election of whose successors the delegates are to be elected.

(5) Delegates shall hold office for a period of five years:

Provided that, if a delegate ceases to be equalified for election under subsection (3), he shall forthwith cease to hold office as a delegate.

(6) A casual vacancy in the office of delegate, in whatsoever manner arising, may be filled by the Board from among the shareholders for the time being qualified for election to that office under subsection (3).

(7) The delegates for the shareholders on a register shall elect, from among those shareholders, the Directors to represent them on the Board in accordance with this Act and the rules made under section 13.

11.—(1) The Governor-General in Council may remove from office the Governor, a Deputy Governor, or any Director nominated or elected under clause (*b*), (*c*), (*d*), (*e*) or (*f*) of subsection (1) of section 9, on a resolution passed by the Board in that behalf by a majority consisting of not less than fifteen Directors:

Provided that, in the case of a Director elected under clause (*c*), (*d*), (*e*) or (*f*), such resolution shall have been confirmed by a majority of not less than than two-thirds of the persons present and voting at a general meeting expressly called for that purpose.

(2) A Director nominated or elected under clause (*b*), (*c*), (*d*), (*e*) or (*f*) of subsection (1) of section 9 shall cease to hold office if, at any time after the expiry of one month from the date of his nomination or election or of eighteen months from the date on which this Act comes into force, whichever is later, he is not registered as a holder of unencumbered shares of the Bank of a nominal value of not less than ten thousand rupees, or if he ceases to hold unencumbered shares of that value.

12.—(1) If the Governor or a Deputy Governor by infirmity or otherwise is rendered incapable of executing his duties or is absent on leave or otherwise in circumstances not involving the vacation of his appointment, the Governor-General in Council may appoint another person to officiate for him, and such person may, notwithstanding anything contained in clause (*b*) of subsection (1) of section 8, be an officer of the Bank.

(2) A casual vacancy in the office of a Director, other than the vacancies provided for in subsection (1), shall be filled in the manner in which, and by the authority by whom, the nomination or election of the Director vacating office was made; and the Director so nominated or elected shall hold office for the unexpired portion of the term of his predecessor.

13. The Governor-General in Council may, after previous publication, make rules to provide for all matters for which provision is in his opinion necessary or expedient for the holding and conduct of elections under this Act, and, in particular, and without prejudice to the generality of the foregoing power, may by such rules provide—

(*a*) for the holding of elections according to the principle of proportional representation by means of the single transferable vote or otherwise as he thinks fit in any case; and

(*b*) for the final decision of doubts or disputes regarding the qualifications of any candidate for election or regarding the validity of elections.

14. Meetings of the Board shall be convened by the Governor at least six times in each year and at least once in each quarter. Meetings shall ordinarily be held in Bombay, but at least two meetings of the Board shall be held in Calcutta in each year.

15.—(1) A general meeting (hereinafter in this Act referred to as the annual general meeting) shall be held annually at Bombay within six weeks from the date on which the annual accounts of the Bank are closed, and a general meeting may be convened by the Board at any other time.

(2) Any shareholder shall be entitled to attend and vote at any general meeting, and no shareholder, whether present in person or voting through another shareholder as proxy, shall have more than one vote.

16.—(1) The following provisions shall apply to the first constitution of the Board, and, notwithstanding anything contained in section 9, the Board as constituted in accordance therewith shall be deemed to be duly constituted in accordance with this Act.

(2) The first Governor and first Deputy Governors shall be appointed by the Governor-General in Council on his own initiative, and shall receive such salaries and allowances as he may determine.

(3) The first four Directors nominated under clause (*b*) of subsection (1) of section 9 shall hold office for three years.

(4) The first four Directors elected under clauses (*c*) and (*d*) of that subsection shall hold office for four years.

(5) The first Director elected under clause (*e*) of that subsection may be elected by all provincial co-operative banks notwithstanding that shares have not been allotted, and shall hold office for four years.

(6) The first eleven Directors representing the shareholders shall be nominated by the Governor-General in Council after consultation with the Local Governments, and shall hold office for two years.

(7) The first elections of Directors under section 10 shall be held before the expiry of the term of office of the Directors nominated under subsection (6), and the Directors so elected shall hold office as follows, namely:—

(*a*) the Directors elected on behalf of the shareholders on the Bombay register—for four years;

(*b*) the Directors elected on behalf of the shareholders on the Calcutta register—for three years;

(*c*) the Director elected on behalf of the shareholders on the Madras register—for five years;

(*d*) the Director elected on behalf of the shareholders on the Rangoon register—for five years;

(*e*) the Directors elected on behalf of the shareholders on the Delhi register—for two years.

Business of the Bank.

17. The Bank shall be authorised to carry on and transact the several kinds of business hereinafter specified, namely:—

(1) the accepting of money on deposit without interest from, and the collection of money for, the Secretary of State in Council, the Governor-General in Council, Local Governments, banks and any other persons;

(2) (*a*) the purchase, sale and rediscount of bills of exchange and promissory notes, drawn and payable in India and arising out of *bonâ fide* commercial or trade transactions, bearing two or more good signatures, one of which shall be that of a scheduled bank, and maturing within ninety days from the date of such purchase or rediscount exclusive of days of grace;

(*b*) the purchase, sale and rediscount of bills of exchange and promissory notes, drawn and payable in India and bearing two or more good signatures, one of which shall be that of a scheduled bank, or a provincial co-operative bank, and drawn or issued for the purpose of financing seasonal agricultural operations or the marketing of crops, and maturing within six months from the date of such purchase or rediscount, exclusive of days of grace: provided that the total face

value of bills or notes so purchased or rediscounted shall not at any time exceed one-fourth of the total face value of all bills and notes purchased or rediscounted by the Bank up to that time;

(c) the purchase, sale and rediscount of bills of exchange and promissory notes, drawn and payable in India and bearing the signature of a scheduled bank, and issued or drawn for the purpose of holding or trading in securities of the Government of India or a Local Government, and maturing within ninety days from the date of such purchase or rediscount exclusive of days of grace;

(3) the purchase from and sale to scheduled banks and persons approved by the Board, in amounts of not less than the equivalent of one lakh of rupees, of the currencies of such gold standard countries as may be specified in this behalf by the Governor-General in Council by notification in the Gazette of India, and of bills of exchange (including treasury bills) drawn in or on any place in any such country, and maturing within ninety days from the date of such purchase, exclusive of days of grace; and the keeping of balances with banks in such countries;

(4) the making of loans and advances, repayable on demand or on the expiry of fixed periods not exceeding ninety days against the security of—

(a) stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any Act of Parliament or by any law for the time being in force in British India;

(b) gold coin or bullion or documents of title to the same;

(c) such bills of exchange and promissory notes as are eligible for purchase or rediscount by the Bank: provided that the total of the loans and advances against such securities as are referred to in sub-clause (b) of clause (2) shall not at any time exceed one-fourth of the total loans and advances made by the Bank up to that time;

(d) such bills of exchange as are eligible for purchase by the Bank under clause (3);

(e) promissory notes of any scheduled bank or a provincial co-operative bank, supported by documents evidencing title to goods which have been transferred, assigned, hypothecated or pledged to any such bank as security for a cash credit granted for *bonâ fide* commercial or trade transactions, or for the purpose of financing seasonal agricultural operations or the marketing of crops: provided that no loan or advance shall be made on the security of any promissory note such as is referred to in this sub-clause after the expiry of five years from the date on which this section comes into force;

(5) the making of advances to the Governor-General in Council repayable in each case not later than three months after the close of the financial year in respect of which the advance has been made;

(6) the issue of demand drafts and the making, issue and circulation of bank post bills made payable on its own branches;

(7) the purchase and sale of securities, maturing within five years from the date of such purchase, of the Government of any gold standard country specified in this behalf by the Governor-General in Council by notification in the Gazette of India;

(8) the purchase and sale of securities of the Government of India of any maturity, or of a Local Government or of a local authority in

British India maturing within ten years from the date of purchase: provided that the amount of such securities held at any time in the Banking Department shall be so regulated that—

(*a*) the total value of such securities shall not exceed the aggregate amount of the share capital of the Bank, the Reserve Fund and two-fifths of the liabilities of the Banking Department in respect of deposits;

(*b*) the value of such securities maturing after six months shall not exceed the aggregate amount of the share capital of the Bank, the Reserve Fund and one-fifth of the liabilities of the Banking Department in respect of deposits;

(*c*) the value of such securities maturing after one year shall not exceed the aggregate amount of the share capital of the Bank, the Reserve Fund and one-tenth of the liabilities of the Banking Department in respect of deposits; and

(*d*) the value of such securities maturing after ten years shall not exceed the aggregate amount of the share capital of the Bank and the Reserve Fund;

(9) the custody of monies, securities and other articles of value, and the collection of the proceeds, whether principal, interest or dividends, of any such securities;

(10) the sale and realisation of all property, whether moveable or immoveable, which may in any way come into the possession of the Bank in satisfaction, or part satisfaction, of any of its claims;

(11) the acting as agent for the Secretary of State in Council, the Governor-General in Council or any Local Government in the transaction of any of the following kinds of business, namely—

(*a*) the purchase and sale of gold or silver;

(*b*) the purchase, sale, transfer and custody of bills of exchange, securities or shares in any company;

(*c*) the collection of the proceeds, whether principal, interest or dividends, of any securities or shares;

(*d*) the remittance of such proceeds, at the risk of the principal, by bills of exchange payable either in India or elsewhere;

(*e*) the management of public debt;

(12) the purchase and sale of gold coin and bullion;

(13) the opening of an account with, and the acting as agent or correspondent of, any other bank which is the principal currency authority of a gold standard country under the law for the time being in force in that country or any of the Federal Reserve Banks in the United States of America;

(14) the borrowing of money for a period not exceeding one month for the purposes of the business of the Bank, and the giving of security for money so borrowed:

Provided that the total amount of such borrowings shall not at any time exceed the amount of the share capital of the Bank:

Provided further, that no money shall be borrowed under this clause from any person in British India other than a scheduled bank;

(15) the making and issue of bank notes subject to the provisions of this Act; and

(16) generally, the doing of all such matters and things as may be incidental or subsidiary to the transaction of the various kinds of business hereinbefore specified.

18. When, in the opinion of the Board, it is necessary or expedient that action should be taken under this section in the interests of Indian trade or commerce, or for the purpose of enabling the Bank to perform any of its functions under this Act, the Bank may, notwithstanding any limitation contained in sub-clauses (*a*) and (*b*) of clause (2) of section 17, purchase, sell or discount any bills of exchange or promissory notes drawn and payable in India and arising out of *bonâ fide* commercial or trade transactions, bearing two or more good signatures and maturing within ninety days from the date of such purchase or discount, exclusive of days of grace.

19. Save as otherwise provided in sections 17, 18 and 45, the Bank may not—

(1) engage in trade or otherwise have a direct interest in any commercial, industrial, or other undertaking, except such interest as it may in any way acquire in the course of the satisfaction of any of its claims: provided that all such interests shall be disposed of at the earliest possible moment;

(2) purchase its own shares or the shares of any other bank or of any company, or grant loans upon the security of any such shares;

(3) advance money on mortgage of, or otherwise on the security of, immoveable property or documents of title relating thereto, or become the owner of immoveable property, except so far as is necessary for its own business premises and residences for its officers and servants;

(4) make unsecured loans or advances;

(5) draw or accept bills payable otherwise than on demand;

(6) allow interest on deposits or current accounts.

CHAPTER III.

CENTRAL BANKING FUNCTIONS.

Relations of the Bank with the Secretary of State in Council, the Governor-General in Council, and Local Governments.

20. The Bank shall undertake to accept monies for account of the Secretary of State in Council and the Governor-General in Council, and such Local Governments as may have the custody and management of their own provincial revenues, and to make payments up to the amount standing to the credit of their accounts respectively, and to carry out their exchange, remittance and other banking operations, including the management of the public debt, on such conditions as may be agreed upon.

21.—(1) The Governor-General in Council and such Local Governments as may have the custody and management of their own provincial revenues shall undertake to entrust the Bank, on such conditions as may be agreed upon, with all their money, remittance, exchange and banking transactions in India and elsewhere and, in particular, to deposit free of interest all their cash balances with the Bank:

Provided that nothing in this subsection shall prevent the Governor-General in Council or any Local Government from carrying on money transactions at Government treasuries or sub-treasuries at places where the Bank has no branches or agencies, and the Governor-General in Council and Local Governments may hold at such treasuries and sub-treasuries such balances as they may require.

(2) The Governor-General in Council and each Local Government shall undertake to entrust the Bank, on such conditions as may be agreed upon,

with the management of the public debt and with the issue of any new loans.

Note Issue.

22.—(1) The Bank shall have the sole right to issue paper money in British India, and may, for a period of one year from the date on which this Chapter comes into force, issue currency notes of the Government of India supplied to it by the Governor-General in Council, and the provisions of this Act applicable to bank notes shall, unless a contrary intention appears, apply to all currency notes of the Government of India issued either by the Governor-General in Council or by the Bank in like manner as if such currency notes were bank notes, and references in this Act to bank notes shall be construed accordingly.

(2) On and from the aforesaid date the Governor-General in Council shall not issue any currency notes or any other kind of paper money.

23.—(1) The issue of bank notes shall be conducted by the Bank in an Issue Department which shall be separated and kept wholly distinct from the Banking Department, and the assets of the Issue Department shall not be subject to any liability other than the liabilities of the Issue Department as hereinafter defined in section 32.

(2) The Issue Department shall not issue bank notes to the Banking Department or to any other person except in exchange for other bank notes or for such coin, bullion or securities as are permitted by this Act to form part of the Reserve.

24. Bank notes shall be of the denominational values of five rupees, ten rupees, fifty rupees, one hundred rupees, five hundred rupees, one thousand rupees and ten thousand rupees, and of such other denominational values, if any, as may be directed by the Governor-General in Council.

25. The design, form and material of bank notes shall be such as may be approved by the Governor-General in Council.

26.—(1) Subject to the provisions of subsection (2), every bank note shall be legal tender at any place in British India in payment or on account for the amount expressed therein, and shall be guaranteed by the Governor-General in Council.

(2) The Governor-General in Council may, by notification in the Gazette of India, declare that, with effect from such date as may be specified in the notification, any series of bank notes of any denomination shall cease to be legal tender save at an office or agency of the Bank.

27. Any bank note re-issued from any office of the Bank shall be sterilised and disinfected before re-issue, and the Bank shall not re-issue bank notes which are torn, defaced or excessively soiled.

28. Notwithstanding anything contained in any enactment or rule of law to the contrary, no person shall of right be entitled to recover from the Governor-General in Council or the Bank the value of any lost, stolen, mutilated or imperfect currency note of the Government of India or bank note:

Provided that the Bank may, with the previous sanction of the Governor-General in Council, prescribe the circumstances in and the conditions and limitations subject to which the value of such currency notes or bank notes may be refunded as of grace.

Prohibition of issue of Private Bills or Notes payable to Bearer on demand.

29. No person in British India other than the Bank or, as expressly authorised by this Act, the Governor-General in Council shall draw, accept, make or issue any bill of exchange, hundi, promissory note or engagement for the payment of money payable to bearer on demand, or borrow, owe or take up any sums or sums of money on the bills, hundis or notes payable to bearer on demand of any such person:

Provided that cheques or drafts payable to bearer on demand or otherwise may be drawn on a perons's account with a banker, shroff or agent.

30.—(1) Any person contravening the provisions of section 29 shall, on conviction by a Presidency Magistrate or a Magistrate of the first class, be punishable with fine equal to the amount of the bill, hundi, note or engagement in respect whereof the offence is committed.

(2) No prosecution under this section shall be instituted except on complaint made by the Bank.

Assets of the Issue Department.

31.—(1) The Reserve shall consist of gold coin, gold bullion, gold securities, rupee coin and rupee securities to such aggregate amount as is not less than the total of the liabilities of the Issue Department as hereinafter defined.

(2) Of the total amount of the Reserve not less than two-fifths shall consist of gold coin, gold bullion or gold securities:

Provided that the amount of gold coin and gold bullion shall not at any time be less than thirty crores of rupees in value and shall not be less than one-fifth of the total amount of the Reserve after the end of the fifth year, or than one-quarter of the total amount of the Reserve after the end of the tenth year, from the date on which this Chapter comes into force.

(3) The remainder of the Reserve shall be held in rupee coin, Government of India rupee securities of any maturity and such bills of exchange and promissory notes drawn and payable in British India as are eligible for purchase by the Bank under sub-clause (*a*) or sub-clause (*b*) of clause (2) of section 17 or under section 18:

Provided that the amount held in rupee coin shall not exceed—

(*a*) during the three years after the date on which this Chapter comes into force, ninety-five crores of rupees,

(*b*) during the next three years, seventy-five crores of rupees,

(*c*) during the next four years, sixty crores of rupees, and

(*d*) fifty crores of rupees thereafter,

or one-tenth of the total amount of the Reserve, whichever amount is greater:

Provided further that the amount held in Government of India rupee securities shall not at any time exceed one-fourth of the total amount of the Reserve or fifty crores of rupees, whichever amount is less.

(4) For the purposes of this section, gold coin and gold bullion shall be valued at 8·47512 grains of fine gold per rupee, rupee coin shall be valued at its face value, and gold and rupee securities shall be valued at the market rate for the time being obtaining.

(5) Of the gold coin and gold bullion held in the Reserve not less than seventeen-twentieths shall be held in British India, and all gold coin and gold bullion forming part of the Reserve shall be held in the custody of the Bank or its agencies:

Provided that gold belonging to the Bank which is in any other bank or in any mint or treasury or in transit may be reckoned as part of the Reserve.

(6) For the purposes of this section, the gold securities which may be held as part of the Reserve shall be securities of any of the following kinds payable in the currency of any of such gold standard countries as may be specified in this behalf by the Governor-General in Council by notification in the Gazette of India, namely:—

(*a*) balances at the credit of the Issue Department with a bank which is the principal currency authority under the law for the time being in force of such country, or with any of the Federal Reserve Banks in the United States of America;

(*b*) bills of exchange bearing two or more good signatures and drawn on and payable at a place in any such country and having a maturity not exceeding ninety days;

(*c*) securities maturing within five years of the Government of any part of His Majesty's dominions which is a gold standard country or of any other gold standard country specified in this behalf by the Governor-General in Council by notification in the Gazette of India:

Provided that, for a period of two years from the date on which this Chapter comes into force,—

(i) any of such last-mentioned securities may be securities maturing after five years, and the Bank may at any time before the expiry of that period dispose of such securities notwithstanding anything contained in section 17, and

(ii) sterling securities of the Government of India may be held as part of the Reserve.

Liabilities of the Issue Department.

32.—(1) The liabilities of the Issue Department shall be an amount equal to the total of the amount of the currency notes of the Government of India and bank notes for the time being in circulation and of an initial amount of forty crores of rupees for the purpose of providing for rupee redemption, which last-mentioned amount shall be reduced by one rupee for every five rupees delivered to the Governor-General in Council under the provisions of section 34, and shall be increased by one rupee for every five rupees received from him under section 35.

(2) For the purposes of this section, any currency note of the Government of India or bank note which has not been presented for payment within forty years from the 1st day of April following the date of its issue shall be deemed not to be in circulation, and the value thereof shall, notwithstanding anything contained in subsection (2) of section 23, be paid by the Issue Department to the Governor-General in Council or the Banking Department, as the case may be; but any such note, if subsequently presented for payment, shall be paid by the Banking Department, and any such payment in the case of a currency note of the Government of India shall be debited to the Governor-General in Council.

Initial Assets and Liabilities.

33. On the date on which this Chapter comes into force, the Issue Department shall take over from the Governor-General in Council the liability for all the currency notes of the Government of India for the time being in circulation, and the Governor-General in Council shall

transfer to the Issue Deparament gold coin, gold bullion, gold securities, rupee coin and rupee securities to such aggregate amount as is equal to the total of the amount of the liability so transferred and of a sum of forty crores of rupees. The coin, bullion and securities shall be transferred in such proportion as to comply with the requirements of section 31:

Provided that the total amount of the gold coin, gold bullion and gold securities so transferred shall not be less than one-half of the whole amount transferred.

Supply of Coin, and of different Forms of Legal Tender Currency.

34. The Bank may deliver to the Governor-General in Council all rupee coin held by it in excess of the amount which the Issue Department is permitted to hold as part of the Reserve under section 31, against payment of four rupees in bank notes, gold or gold securities for every five rupees so delivered.

35. When the amount of rupee coin for the time being held in the Reserve does not exceed twenty-five crores of rupees or one-tenth of the total amount of the Reserve, whichever is greater, the Bank may demand delivery of rupee coin from the Governor-General in Council, on payment of four rupees in bank notes, gold or gold securities for every five rupees so delivered.

36. The Governor-General in Council shall undertake not to re-issue any rupee coin delivered under section 34 nor to put into circulation any new rupees, except through the Bank and on the Bank's demand; and the Bank shall undertake not to dispose of rupee coin otherwise than for the purposes of circulation or by delivery to the Governor-General in Council under that section.

37. The Bank shall issue rupee coin on demand in exchange for currency notes of the Government of India, and shall issue currency notes or bank notes on demand in exchange for coin which is legal tender under the Indian Coinage Act, 1906, and it shall, in exchange for currency notes or bank notes of five rupees or upwards, supply currency notes or bank notes of lower value or rupees or other coins which are legal tender under the Indian Coinage Act, 1906, in such quantities as may, in the opinion of the Bank, be required for circulation; and the Governor-General in Council shall, subject to the provisions of section 35, supply such rupees or other coins to the Bank on demand. If the Governor-General in Council at any time fails to discharge this duty, the Bank shall be released from its obligation to supply such coins to the public.

Obligation to sell Gold and Gold Exchange.

38.—(1) The provisions of this section shall have effect from such date, not later than the 1st day of July, 1931, as the Governor-General in Council may, by notification in the Gazette of India, appoint:

Provided that the Governor-General in Council may, by notification in the Gazette of India stating his reasons for such action, substitute for the year 1931 in this section the year 1932; and may, by like notifications, make two further successive substitutions of the years 1933 and 1934.

(2) The Bank shall sell gold bullion for delivery in Bombay to any person who makes a demand in that behalf at its office at Bombay, Calcutta, Madras, Rangoon or Delhi and pays in legal tender currency the purchase price as determined under the provisions of this section:

Provided that no person shall be entitled to demand an amount of gold bullion containing less than two hundred and fifty tolas of fine gold.

(3) The price of gold bullion for delivery in Bombay shall be twenty-one rupees, three annas and ten pies per tola of fine gold with an addition representing twice the normal cost per tola of transferring gold bullion in bulk from Bombay to such place in a gold standard country as may be specified in this behalf by the Governor-General in Council by notification in the Gazette of India, including interest on its value during transit:

Provided that no such addition shall be made when the rate at which the currency of the country in which the place so specified is situate can be purchased in Bombay for immediate delivery at that place is such that the equivalent of the price at which the principal currency authority of that country is bound by law to give gold in exchange for currency is less than twenty-one rupees, three annas and ten pies per tola of fine gold by an amount equal to or greater than the normal cost per tola of transferring gold bullion in bulk from the specified place to Bombay, including interest on its value during transit.

(4) The Governor-General in Council shall from time to time determine in accordance with the provisions of subsection (3) the price at which the Bank shall sell gold bullion for delivery in Bombay and shall notify the price so determined in the Gazette of India. Such notification shall be conclusive as between the Bank and any other person as to the price which the Bank shall be entitled to charge in respect of any sale of gold bullion.

39.—(1) The Bank shall sell, to any person who makes a demand in that behalf at its office at Bombay, Calcutta, Madras, Rangoon or Delhi and pays the purchase price in legal tender currency, at a rate equivalent to twenty-one rupees, three annas and ten pies per tola of fine gold, the currency of such gold standard country as may be notified in this behalf by the Governor-General in Council in the Gazette of India, for immediate delivery in that country:

Provided that no person shall be entitled to demand an amount of currency of less value than that of two hundred and fifty tolas of fine gold.

(2) For the purpose of determining the equivalent rate applicable to the sale of currency under this section, twenty-one rupees, three annas and ten pies shall be deemed to be equivalent to such sum in that currency as is required to purchase one tola of fine gold in that country at the rate at which the principal currency authority of that country is bound by law to give currency in exchange for gold, after deduction therefrom of an amount representing the normal cost per tola of transferring gold bullion in bulk from Bombay to that country, including interest on its value during transit.

(3) The Governor-General in Council shall from time to time determine the equivalent rate in accordance with the provisions of subsection (2), and shall notify the rate so determined in the Gazette of India.

Obligation to buy Gold.

40. The Bank shall buy, from any person who makes a demand in that behalf at its office in Bombay, Calcutta, Madras, Rangoon or Delhi, gold bullion for delivery in Bombay at the rate of twenty-one rupees, three annas and ten pies per tola of fine gold, if such gold is tendered in the form of bars containing not less than two hundred and fifty tolas of fine gold:

Provided that the Bank shall be entitled to require such gold bullion to be melter, assayed, and refined, by persons approved by the Bank, at the expense of the person tendering the bullion.

Suspension of Reserve Requirements and Tax on Note Issue.

41.—(1) The Bank may, with the previous sanction of the Governor-General in Council, for periods not exceeding thirty days in the first instance, which may, with the like sanction, be extended from time to time by periods not exceeding fifteen days, hold in the Reserve gold coin, gold bullion or gold securities of less aggregate amount than that required by subsection (2) of section 31 and, whilst the holding is so reduced, the proviso to that subsection shall cease to be operative.

(2) In respect of any period during which the holding of gold coin, gold bullion and gold securities is reduced under subsection (1), the Bank shall pay to the Governor-General in Council a tax upon the amount by which such holding is reduced below the minimum prescribed by subsection (2) of section 31; such tax shall be payable at the bank rate for the time being in force, with an addition of one per cent. per annum when such holding exceeds thirty-two and a half per cent. of the total amount of the Reserve and of a further one and a half per cent. per annum in respect of every further decrease of two and a half per cent. or part of such decrease.

Provided that the tax shall not in any event be payable at a rate less than six per cent. per annum.

42. The Bank shall not be liable to the payment of any stamp duty under the Indian Stamp Act, 1899, in respect of bank notes issued by it.

Duration of the Privilege of Note Issue.

43. If at any time the Bank fails to comply with any provision of this Chapter or with any other provision of this Act, the Governor-General in Council may, by notification in the Gazette of India, declare that the Bank has forfeited the right of note issue, and shall thereupon take over the liabilities of the Issue Department together with such portion of the assets of the Bank as is required to meet such liabilities, and thereafter the business of the Issue Department shall be carried on in the manner prescribed by this Act by such agency as the Governor-General in Council may determine.

Cash Reserves to be maintained by banks.

44.—(1) Every scheduled bank shall maintain a balance with the Reserve Bank the amount of which shall at no time be less than seven and one-half per cent. of the daily average of the demand and two and one-half per cent. of the daily average of the time liabilities of such bank in India.

(2) For the purposes of subsection (1), the daily average of the amounts of the demand and time liabilities of each scheduled bank shall be computed in respect of each period ending on the fifteenth and on the last day of each month.

(3) Every such bank shall send to the Governor-General in Council and to the Bank a monthly return signed by two responsible officers of such bank, showing—

(*a*) the amounts of its demand and time liabilities respectively in India,

(*b*) the total amount held in India in currency notes of the Government of India and bank notes,

(*c*) the amounts held in India in rupee coin and subsidiary coin respectively,

(*d*) the amounts of advances made and of bills discounted in India respectively, and

(*e*) the balance held at the Bank,

at the close of the month to which the return relates.

(4) Every such return shall be sent not later than fourteen days after the close of the month to which it relates and shall state whether the bank has during that month maintained with the Reserve Bank the minimum balance required by subsection (1).

(5) Any bank failing to comply with the provisions of subsection (3) or subsection (4) shall be liable, on application made by or on behalf of the Governor-General in Council to the principal Civil Court having jurisdiction in a place where an office of the bank is situated, to a penalty of one hundred rupees for each day during which the failure continues.

(6) When it appears from any such monthly return or from a report of the Board that any scheduled bank has failed to maintain the minimum balance required by subsection (1), the Governor-General in Council may call for such further return, or make such inspection of the books and accounts of that bank, as may be necesssary to ascertain the amount of the deficiency, if any, and the period during which it has continued; and a bank so in default shall be liable, on application made by or on behalf of the Governor-General in Council to the principal Civil Court having jurisdiction in a place where an office of the bank is situated, to a penalty at a rate per annum which shall be three per cent. above the bank rate on the amount of the deficiency for each day during which the default has continued, and shall be raised to five per cent. above the bank rate after the first seven days of the deficiency.

(7) The Governor-General in Council shall, by notification in the Gazette of India, direct the inclusion in the First Schedule of any company, not already so included, which carries on the business of banking in British India and which—

(*a*) is a company as defined in clause (2) of section 2 of the Indian Companies Act, 1913, or a corporation or company incorporated by or under any law in force in any place outside British India, and

(*b*) has a paid-up capital and reserves of an aggregate value of not less than three lakhs of rupees;

and shall, by a like notification, direct the exclusion from that Schedule of any scheduled bank the aggregate value of whose paid-up capital and reserves at any time becomes less than three lakhs of rupees, or which goes into liquidation or otherwise ceases to carry on banking business.

Agreement with the Imperial Bank of India.

45. The Bank shall enter into an agreement with the Imperial Bank of India, which shall be subject to the approval of the Governor-General in Council and shall be expressed to come into force on the date on which this Chapter comes into force and to remain in force for twenty-five years and shall further contain the provisions set forth in the Second Schedule.

CHAPTER IV.

GENERAL PROVISIONS.

Reserve Fund and Allocation of Surplus.

46. After making provision for bad and doubtful debts, depreciation in assets, contributions to staff and superannuation funds, and such other

contingencies as are usually provided for by bankers, and after payment out of the net annual profits of a cumulative dividend at the rate of five per cent. per annum on the share capital, the surplus shall be allocated as follows:—

(*a*) one-half to a Reserve Fund, until such Reserve Fund is equal to one-half of the share capital, and the remaining one-half to the Governor-General in Council;

(*b*) thereafter, until the Reserve Fund is equal to the share capital, one-tenth to the Reserve Fund, and the balance to the Governor-General in Council, and

(*c*) when and for so long as the Reserve Fund is not less than the share capital, a portion to an additional dividend to the shareholders calculated on the scale set forth in the Third Schedule, and the balance to the Governor-General in Council:

Provided that, so long as the Reserve Fund is less than the share capital, not less than fifty lakhs of rupees of the surplus, or the whole of the surplus if less than that amount, shall be allocated to the Reserve Fund.

Bank Rate.

47. The Bank shall make public from time to time the minimum rate at which it is prepared to buy or rediscount bills of exchange or other commercial paper eligible for purchase under this Act.

Audit.

48.—(1) Not less than two auditors shall be elected and their remuneration fixed at the annual general meeting. The auditors may be shareholders, but no director or other officer of the Bank shall be eligible during his continuance in office. Any auditor shall be eligible for re-election on quitting office.

(2) The first auditors of the Bank may be appointed by the Board before the first annual general meeting and, if so appointed, shall hold office only until that meeting. All auditors elected under this section shall severally be, and continue to act as, auditors until the first annual general meeting after their respective elections:

Provided that any casual vacancy in the office of any auditor elected under this section may be filled by the Board.

49. Without prejudice to anything contained in section 48, the Governor-General in Council may at any time appoint such auditors as he thinks fit to examine and report upon the accounts of the Bank.

50.—(1) Every auditor shall be supplied with a copy of the annual balance-sheet, and it shall be his duty to examine the same, together with the accounts and vouchers relating thereto; and every auditor shall have a list delivered to him of all books kept by the Bank, and shall at all reasonable times have access to the books, accounts and other documents of the Bank, and may, at the expense of the Bank if appointed by it or at the expense of the Governor-General in Council if appointed by him, employ accountants or other persons to assist him in investigating such accounts, and may, in relation to such accounts, examine any Director or officer of the Bank.

(2) The auditors shall make a report to the shareholders or to the Governor-General in Council, as the case may be, upon the annual balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet containing

all necessary particulars and properly drawn up so as to exhibit a true and correct view of the state of the Bank's affairs, and, in case they have called for any explanation or information from the Board, whether it has been given and whether it is satisfactory. Any such report made to the shareholders shall be read, together with the report of the Board, at the annual general meeting.

Returns.

51.—(1) The Bank shall prepare and transmit to the Governor-General in Council a weekly account of the Issue Department and of the Banking Department in the form set out in the Fourth Schedule or in such other form as the Governor-General in Council may, by notification in the Gazette of India, prescribe. The Governor-General in Council shall cause those accounts to be published weekly in the Gazette of India.

(2) The Bank shall also, within two months from the date on which the annual accounts of the Bank are closed, transmit to the Governor-General in Council a copy of the annual accounts signed by the Governor, the Deputy Governors and the Chief Accounting Officer of the Bank, and certified by the auditors, and the Governor-General in Council shall cause such accounts to be published in the Gazette of India.

(3) The Bank shall also, within two months from the date on which the annual accounts of the Bank are closed, transmit to the Governor-General in Council a statement showing the name, address and occupation of, and the number of shares held by, each shareholder of the Bank.

Liquidation.

52.—(1) Nothing in the Indian Companies Act, 1913, shall apply to the Bank, and the Bank shall not be placed in voluntary or compulsory liquidation save with the sanction of the Governor-General in Council and in such manner as he may direct.

(2) In such event the Reserve Fund and surplus assets, if any, of the Bank shall be divided between the Governor-General in Council and the shareholders in the proportion of seventy-five per cent. and twenty-five per cent. respectively.

Regulations.

53.—(1) The Board may, with the previous sanction of the Governor-General in Council, make regulations consistent with this Act to provide for all matters for which provision is necessary or convenient for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such regulations may provide for all or any of the following matters, namely:—

(*a*) the maintenance of the share register, the manner in which and the conditions subject to which shares may be held and transferred, and, generally, all matters relating to the rights and duties of shareholders;

(*b*) the manner in which general meetings shall be convened and the procedure to be followed thereat;

(*c*) the manner in which notices may be served on behalf of the Bank upon shareholders or other persons;

(*d*) the manner in which the business of the Board shall be transacted, and the procedure to be followed at meetings thereof;

(*e*) the establishment of Local Boards and the delegation to such Boards of powers and functions;

(*f*) the constitution and management of staff and superannuation funds for the officers and servants of the Bank;

(*g*) the manner and form in which contracts binding on the Bank may be executed;

(*h*) the provision of an official seal of the Bank and the manner and effect of its use;

(*i*) the manner and form in which the balance-sheet of the Bank shall be drawn up, and in which the accounts shall be maintained;

(*j*) the circumstances in which, and the conditions and limitations subject to which, the value of any lost, stolen, mutilated or imperfect currency note of the Government of India or bank note may be refunded; and

(*k*) generally for the efficient conduct of the business of the Bank.

Amendments and Repeal.

54. In the Indian Coinage Act, 1906, for section 11 the following section shall be substituted, namely:—

"11. Gold coins, coined at His Majesty's Royal Mint in England or at any mint established in pursuance of a proclamation of His Majesty as a branch of His Majesty's Royal Mint, shall not be legal tender in British India in payment or on account, but such coins shall be received by the Reserve Bank of India at its offices and agencies in India at the bullion value of such coins calculated at the rate of 8.47512 grains troy of fine gold per rupee."

55. The Indian Paper Currency Act, 1923, and the Currency Act, 1927, are hereby repealed.

THE FIRST SCHEDULE.

[*See section 2 (m).*]

SCHEDULE OF BANKS.

Ajodhia Bank, Fyzabad.
Allahabad Bank.
American Express Company Incorporated.
Banco Nacional Ultramarino.
Bangalore Bank.
Bank of Baroda.
Bank of Behar.
Bank of India, Bombay.
Bank of Morvi.
Bank of Mysore.
Bank of Taiwan.
Bari Doab Bank, Lahore.
Benares Bank.
Bhargava Commercial Bank.
Bhowanipore Banking Corporation, Calcutta.
Bombay Merchants' Bank, Bombay.
Byopar Sahayak Bank, Meerut.
Canara Bank.
Central Bank of India.
Chartered Bank of India, Australia and China.
Chota Nagpur Banking Association.
Coimbatore Town Bank.
Comptoir National d'Escompte de Paris.
Dawsons Bank, Pyapon.
Eastern Bank.
Equitable Eastern Banking Corporation.
Grindlay and Company.
Hongkong and Shanghai Banking Corporation.
Imperial Bank of India.
Imperial Bank of Persia.
Indian Bank.
Industrial Bank of Western India.
Jalpaiguri Banking and Trading Corporation.
Karachi Bank, Karachi.
Karnani Industrial Bank.
Lloyds Bank.
Lyallpur Bank.
Mercantile Bank of India.
Mitsui Bank.
Muffassil Bank, Gorakhpur.
Mysore Industrial Bank.
Namboodiri Bank, Pallippuram.
National Bank of India.
National City Bank of New York.
Nederlandsche Indische Handelsbank.
Nederlandsche Handel - Maatschappij.
Nedungadi Bank, Calicut.
Oudh Commercial Bank.
P. and O. Banking Corporation.
People's Bank of Northern India.
Punjab and Kashmir Bank, Rawalpindi.
Punjab and Sind Bank, Amritsar.
Punjab Co-operative Bank.
Punjab National Bank.
Shilotri Bank, Bombay.
Simla Banking and Industrial Company.
South India Bank, Tinnevelly.
Sumitomo Bank.
Thomas Cook and Sons.
Union Bank of India.
U. Rai Gyaw Thoo and Co., Akyab.
Yokohama Specie Bank.

THE SECOND SCHEDULE.

(*See section* 45.)

Provisions to be contained in the Agreement between the Reserve Bank of India and the Imperial Bank of India.

1. The Imperial Bank of India shall be the sole agent of the Reserve Bank of India at all places in British India where there is a branch of the Imperial Bank of India and no branch of the Banking Department of the Reserve Bank of India.

2. In consideration of the performance by the Imperial Bank of India on behalf of the Reserve Bank of India of the functions which the Imperial Bank of India was performing on behalf of the Governor-General in Council at the places referred to in clause 1 before the coming into force of the Reserve Bank of India Act, 1928, the Reserve Bank of India shall pay to the Imperial Bank of India a commission calculated on the total of the receipts and disbursements dealt with annually on account of Government by the Imperial Bank of India on behalf of the Reserve Bank of India. Such commission shall be one-sixteenth of one per cent. on the first 250 crores of such total and one thirty-second of one per cent. on the remainder.

3. Subject to the condition that the Imperial Bank of India shall keep open branches not less in number than those existing at the time of the coming into force of the Reserve Bank of India Act, 1928, the Reserve Bank of India shall allow the following balances to the Imperial Bank of India at the interest rates hereinafter specified, namely:—

(*a*) during the first five years from that time—3 crores free of interest;

(*b*) during the next five years—2 crores free of interest and, at the option of the Imperial Bank of India, an amount not exceeding 1 crore at 2 per cent. per annum;

(*c*) during the next five years—1 crore free of interest and, at the option of the Imperial Bank of India, an amount not exceeding 2 crores at 2 per cent. per annum; and

(*d*) during the next five years—at the option of the Imperial Bank of India, an amount not exceeding 3 crores at 2 per cent. per annum.

4. The Imperial Bank of India shall not without the approval of the Reserve Bank of India open any branch in substitution for a branch existing at the time this agreement comes into force.

THE THIRD SCHEDULE.

(*See section* 46.)

Scale of Additional Dividend payable to Shareholders.

A. So long as the share capital of the Bank is five crores of rupees—

(1) if the surplus does not exceed four crores of rupees—Nil;

(2) if the surplus exceeds four crores of rupees—

(*a*) out of such excess up to the first one and a half crores of rupees—a fraction of one-thirtieth;

(*b*) out of each successive additional excess up to one and a half crores of rupees—one-half of the fraction payable out of the next previous one a half crores of excess:

Provided that the additional dividend shall be a multiple of one-eighth of one per cent. on the share capital, the amount of the surplus allocated

thereto being rounded up or down to the nearest one-eighth of one per cent. on the share capital.

B. When the original share capital of the Bank has been increased or reduced, the additional dividend shall be calculated in the manner provided in clauses (1) and (2) above, but the fraction of one thirtieth mentioned in sub-clause (*a*) of clause (2) shall be increased or diminished in proportion to the increase or reduction of the share capital.

THE FOURTH SCHEDULE.

(*See section* 51.)

RESERVE BANK OF INDIA.

An Account pursuant to the Gold Standard and Reserve Bank of India Act, 1928, *for the week ending on the day of* .

Issue Department.

Liabilities.	Rs.	Rs.	*Assets.*	Rs.
Bank Notes held in the Banking Department			Rupee coin	
Bank Notes in circulation			Government of India rupee securities	
Total Bank Notes issued ...			Internal Bills of Exchange and other commercial paper	
Government of India Notes in circulation			Gold securities	
Rupee redemption ...			Gold coin or bullion—	
			(*a*) held in India... ...	
			(*b*) held outside India ...	

Ratio of gold and gold securities to liabilities, per cent.

Dated the day of 19 .

Banking Department.

Liabilities.	Rs.	*Assets.*	Rs.
Capital paid up...		Notes...	
Reserve Fund		Rupee coin	
Deposits—		Subsidary coin	
(*a*) Government		Bills discounted—	
(*b*) Banks		(*a*) Internal	
(*c*) Others		(*b*) External	
Bills payable		(*c*) Government of India Treasury Bills... ...	
Other liabilities...		Balances held abroad ...	
		Loans and advances to the Government	
		Other loans and advances...	
		Investments	
		Other assets	

Dated the day of 19 .

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RECORDS OF THE JOINT COMMITTEE ON INDIAN CONSTITUTIONAL REFORM

Die Martis, 15° Augusti, 1933

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